



Australian Capital Territory

# Court Procedures (Consequential Amendments) Act 2004

A2004-60

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2004 051B

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Australian Capital Territory

# Court Procedures (Consequential Amendments) Act 2004

**A2004-60**

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An Act to amend various legislation because of the enactment of the *Court Procedures Act 2004*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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2004 051B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**1 Name of Act**

This Act is the *Court Procedures (Consequential Amendments) Act 2004*.

**2 Commencement**

This Act commences on the commencement of the *Court Procedures Act 2004*.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended—sch 1**

This Act amends the legislation mentioned in schedule 1.

**4 Legislation repealed**

This Act repeals the following legislation:

- *Arrest on Mesne Process Act 1902* A1902-24
- *Court Security Act 2001* A2001-47
- *Crown Proceedings Act 1992* A1992-60
- *Crown Proceedings Regulations 1993* SL1993-6
- *Earnings (Assignment and Attachment) Act 1966* A1966-7
- *Evidence by Commission Act 1859* 22 Vic c 20
- *Evidence by Commission Act 1885* 48 and 49 Vic c 74
- *Foreign Tribunals Evidence Act 1856* 19 and 20 Vic c 113
- *Judgment Creditors Remedies Act 1901* A1901-8
- *Judiciary (Stay of Proceedings) Act 1933* A1933-36
- *Magistrates Court (Civil Jurisdiction) Act 1982* A1982-54
- *Magistrates Court (Civil Jurisdiction) Regulations 1987* SL1987-16
- *Magistrates Court (Civil Jurisdiction) (Solicitors' Costs) Regulations 1982* SL1982-31

- *Set-off of Debts Act 1728 2 Geo 2 c 22*
- *Set-off of Debts Act 1735 8 Geo 2 c 24.*

## Schedule 1            Consequential amendments

(see s 3)

### Part 1.1                Administration and Probate Act 1929

#### [1.1]            Section 5 (1), definition of *rules*

*substitute*

*rules* mean rules under the *Court Procedures Act 2004* that apply in relation to the court.

#### [1.2]            Section 125B

*omit*

, on payment of the fee (if any) determined under the *Supreme Court Act 1933*, section 37 (1)

### Part 1.2                Administrative Appeals Tribunal Act 1989

#### [1.3]            Section 27 (1), note

*substitute*

*Note*    A fee may be determined under the *Court Procedures Act 2004* for this provision.



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**[1.4] Section 46**

*substitute*

**46 Appeals from tribunal decisions**

- (1) A party to a tribunal proceeding may, with the Supreme Court's leave, appeal to the court on a question of law from a decision of the tribunal in the proceeding.
- (2) An appeal by a person under subsection (1) must be begun within—
  - (a) 28 days after the day a document setting out the tribunal's decision is given to the person; or
  - (b) if the person has asked for a written statement of reasons under section 44 (4)—28 days after the day the statement is given to the person; or
  - (c) any further time the Supreme Court allows (whether on, before or after a day mentioned in paragraph (a) or (b)).
- (3) The Supreme Court must decide the appeal, and may make any of the following orders:
  - (a) an order confirming or setting aside the decision of the tribunal;
  - (b) an order remitting the case to be heard and decided again, either with or without the hearing of further evidence, by the tribunal in accordance with the court's directions;
  - (c) an order for costs.
- (4) The Supreme Court may also make any other order the court considers appropriate.
- (5) This section applies in relation to a decision of the tribunal made on or after the day this section commences.

- (6) Subsection (5) and this subsection expire 1 year after the day this section commences.

**[1.5] Section 48**

*substitute*

**48 Referral of questions of law to Supreme Court**

- (1) If the tribunal considers that a question of law raises an issue of public importance, the tribunal may refer the question to the Supreme Court.
- (2) The tribunal may act under subsection (1) on its own initiative or on application by a party.

**[1.6] Section 49E (5)**

*substitute*

- (5) Costs are payable in accordance with the scale of costs in the rules under the *Court Procedures Act 2004* applying in relation to the Supreme Court.

**Part 1.3 Administrative Decisions  
(Judicial Review) Act 1989**

**[1.7] Section 3, definition of *rules of court***

*omit*

**[1.8] Section 10 (1) (a), (2), (7) and (8)**

*omit*

**[1.9] Section 10**

*renumber subsections and paragraphs when Act next republished under Legislation Act*

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## **Part 1.4**                      **Arrest on Mesne Process Act** **1902**

### **[1.10] Section 4 heading**

*omit*

**this Act**

*substitute*

**div 6.1**

### **[1.11] Section 4**

*omit*

in this Act

*substitute*

in this division

### **[1.12] Section 4 (as amended) and section 5**

*relocate to Court Procedures Act 2004, division 7.2 as sections 63 and 64*

### **[1.13] Section 6 (1)**

*omit*

(1)

### **[1.14] Section 6 (2)**

*omit*

### **[1.15] Section 6 (as amended), sections 7 to 10 and 11 to 14**

*relocate to Court Procedures Act 2004, division 7.2 as sections 65 to 73*

## Part 1.5 Bail Act 1992

### [1.16] Section 37 (5)

*omit*

division 9.2

*substitute*

division 3.9.2

## Part 1.6 Children and Young People Act 1999

### [1.17] Section 56

*substitute*

#### 56 Procedure of Childrens Court

- (1) The *Magistrates Court Act 1930* (other than chapter 4 (Civil proceedings)) applies to the Childrens Court in the exercise of its jurisdiction under section 54 (General jurisdiction of the Childrens Court) in relation to a proceeding under chapter 6 (Young offenders), other than section 128 (Special purpose leave).
- (2) The rules under the *Court Procedures Act 2004* applying in relation to civil proceedings in the Magistrates Court apply to the Childrens Court in the exercise of its jurisdiction under section 54 in relation to any other proceeding under this Act.

### [1.18] Section 58

*omit*

**[1.19] Section 63, definition of *fine***

*substitute*

*fine*—see the *Magistrates Court Act 1930*, section 146.

**[1.20] Section 63, definition of *outstanding fine***

*substitute*

*outstanding fine*—see the *Magistrates Court Act 1930*, section 146.

**[1.21] Section 102 (4) (a)**

*omit*

division 9.2

*substitute*

division 3.9.2

**[1.22] Section 276**

*substitute*

**276 Material to accompany applications**

An application under this part must be accompanied by the following:

- (a) a written statement of the substance of the oral evidence that the applicant intends to present at the hearing of the application;
- (b) a written copy of any document or expert report that the applicant intends to rely on at the hearing of the application.

**[1.23] Section 296 (2)**

*substitute*

- (2) The draft order must be signed by—
- (a) each party to the application; and
  - (b) each person who will be required to comply with the order or who will be directly affected by the order.

**[1.24] Section 303 (2)**

*substitute*

- (2) A proceeding for judicial review must be brought in accordance with the relevant rules of court.

**[1.25] Section 309 (3)**

*substitute*

- (3) An appeal under subsection (1) must be brought in accordance with the relevant rules of court.

**[1.26] Section 314 (3)**

*substitute*

- (3) An appeal under subsection (1) must be brought in accordance with the relevant rules of court.

**[1.27] Section 380 (5)**

*substitute*

- (5) This chapter does not limit the *Magistrates Court Act 1930*, part 3.10 (Criminal appeals) or another Territory law that makes provision about the appellate jurisdiction of the Supreme Court.

**[1.28] Section 381**

*substitute*

**381 Application of Magistrates Court Act etc**

- (1) The provisions of the *Magistrates Court Act 1930*, division 3.10.2 (Appeals in criminal matters), other than section 219 (Barring right of appeal under div 3.10.2 if order to review granted) apply in relation to an appeal mentioned in section 380 (1) (a) or (b) as if—
  - (a) the appeal were an appeal to which that division applied; and
  - (b) the appeal were an appeal to which that Act, section 214 (Appeals in cases other than civil cases) applied; and
  - (c) a reference in that division to the Magistrates Court were a reference to the Childrens Court; and
  - (d) all other necessary changes, and any changes prescribed under the regulations, were made.
- (2) The provisions of the *Magistrates Court Act 1930*, part 4.5 (Civil appeals) apply in relation to an appeal mentioned in section 380 (1) (c) or (2) as if—
  - (a) it were an appeal from a judgment or order mentioned in that Act, section 274 (2) ; and
  - (b) all other necessary changes, and any changes prescribed under the regulations, were made.
- (3) The provisions of the *Magistrates Court Act 1930* division 3.10.3 (Orders to review in criminal matters) apply in relation to an appeal mentioned in section 380 (1) (d), (e), (f), (g) or (h) as if—
  - (a) it were an appeal from—
    - (i) for an appeal mentioned in section 380 (1) (d)—an order mentioned in that Act, section 219 B (1) (a); or

- (ii) for an appeal mentioned in section 380 (1) (e)—an order mentioned in that Act, section 219B (1) (c); or
  - (iii) for an appeal mentioned in section 380 (1) (f)—a decision mentioned in that Act, section 219B (1) (e); or
  - (iv) for an appeal mentioned in section 380 (1) (g)—a decision mentioned in that Act, section 219B (1) (d); or
  - (v) for an appeal mentioned in section 380 (1) (h)—a decision mentioned in that Act, section 219B (1) (f).
- (b) all other necessary changes, and any changes prescribed under the regulations, were made.

**[1.29] Section 382**

*omit*

division 11.3 (Orders to review)

*substitute*

division 3.10.3 (Orders to review in criminal matters)

**Part 1.7 Chiropractors and Osteopaths  
Act 1983**

**[1.30] Section 43 (2)**

*omit*

*Arrest on Mesne Process Act 1902*, part 2

*substitute*

*Court Procedures Act 2004*, sections 63 to 69



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**[1.31] New section 43 (3)**

*insert*

- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

**Part 1.8 Civil Law (Wrongs) Act 2002**

**[1.32] Section 91**

*omit*

**Part 1.9 Commercial Arbitration Act 1986**

**[1.33] Section 17**

*substitute*

**17 Subpoenas to attend etc**

- (1) On application by a party to an arbitration agreement, the court may issue a subpoena requiring a person—
- (a) to attend for examination before the arbitrator or umpire; or
  - (b) to attend for examination and produce stated documents to the arbitrator or umpire.
- (2) A person may not be compelled under the subpoena to answer any question or produce any document that the person could not be compelled to answer or produce on the trial of an action.

**[1.34] Section 18 heading**

*substitute*

**18 Failure to attend before arbitrator or umpire etc**

**[1.35] Section 18 (1) (a)**

*omit*

refuses or

**[1.36] Section 18 (1) (a)**

*omit*

or summons

**[1.37] Section 18 (1) (b) (i), (ii) and (iii)**

*omit*

refuses or

**[1.38] Section 18 (1) (b) (iii)**

*omit*

or summons

**[1.39] Section 18 (1) (c) and (3) (a)**

*omit*

refuses or

**[1.40] Section 18 (3) (a)**

*omit*

or summons

---

## **Part 1.10 Common Boundaries Act 1981**

### **[1.41] Section 2, definitions of *conference***

*omit*

### **[1.42] Section 2, definition of *conference notice***

*substitute*

***conference notice*** means a notice for the holding of a conference under the rules.

*Note* If a form is approved under the *Court Procedures Act 2004* for the notice, the form must be used.

### **[1.43] Section 2, definition of *inquiry notice***

*substitute*

***inquiry notice*** means a notice for the holding of an inquiry under the rules.

*Note* If a form is approved under the *Court Procedures Act 2004* for the notice, the form must be used.

### **[1.44] Section 2, new definition of *rules***

*insert*

***rules*** means rules under the *Court Procedures Act 2004* applying in relation to the Small Claims Court.

### **[1.45] Section 4 (1), new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.46] Section 4 (3) and (4)**

*substitute*

- (3) The occupier of a parcel must not make application under subsection (1) unless—
- (a) the occupier has given the occupier of the adjoining parcel (the *other occupier*) a notice asking the other occupier to discuss the erection of, and payment for, the fencing of the boundary between their parcels; and
  - (b) 1 month has passed since the day the occupier gave the notice to the other occupier.

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.47] Section 4 (6)**

*substitute*

- (6) On receiving an application under subsection (1), the registrar must—
- (a) direct the holding of a conference between the parties; or
  - (b) if satisfied that there is not a reasonable possibility of the parties settling the issues in dispute at a conference—direct the holding of an inquiry into the application.

**[1.48] Section 4 (9)**

*omit*

**[1.49] Section 4**

*renumber subsections when Act next republished under Legislation Act*

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**[1.50] Section 5 (1)**

*substitute*

- (1) The Small Claims Court may hold an inquiry on an application under section 4 under a direction of the registrar under that section or the rules.

**[1.51] Section 6 (1), new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.52] Section 6 (3)**

*substitute*

- (3) The occupier of a parcel must not make application under subsection (1) unless—
- (a) the occupier has given the occupier of the adjoining parcel (the ***other occupier***) a notice asking the other occupier to discuss the repair or replacement of the fence between their parcels; and
- (b) 1 month has passed since the day the occupier gave the notice to the other occupier.

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.53] Section 6 (5), new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.54] Section 6 (7) and (8)**

*omit*

**[1.55] Section 6 (10)**

*substitute*

- (10) On receiving an application under subsection (1) or (5), the registrar must—
- (a) direct the holding of a conference between the parties; or
  - (b) if satisfied that there is not a reasonable possibility of the parties settling the issues in dispute at a conference—direct the holding of an inquiry into the application.

**[1.56] Section 6**

*renumber subsections when Act next republished under Legislation Act*

**[1.57] Section 7 (1)**

*substitute*

- (1) The Small Claims Court may hold an inquiry on an application under section 6 under a direction of the registrar under that section or the rules.

**[1.58] Section 8 (1), new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.59] Section 8 (2)**

*omit*

**[1.60] Section 8 (4)**

*substitute*

- (4) On receiving an application under subsection (1), the registrar must—

- (a) direct the holding of a conference between the parties; or
- (b) if satisfied that there is not a reasonable possibility of the parties settling the issues in dispute at a conference—direct the holding of an inquiry into the application.

**[1.61] Section 8 (7)**

*substitute*

- (7) The Small Claims Court may hold an inquiry on an application under subsection (1) under a direction of the registrar under subsection (4) (b) or the rules.

**[1.62] Section 8**

*renumber subsections when Act next republished under Legislation Act*

**[1.63] Section 9 heading**

*substitute*

**9 Costs—certain applications under Common Boundaries Act**

**[1.64] Section 9 (1)**

*omit*

this division

*substitute*

the *Common Boundaries Act 1981*, division 2.1 (Fences requested by occupiers)

**[1.65] Section 9 (2) (a)**

*omit*

this division

*substitute*

the *Common Boundaries Act 1981*, division 2.1

**[1.66] Section 9 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004, part 18 as section 257A*

**[1.67] Section 11 (1) and (2), new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.68] Section 11 (3)**

*omit*

**[1.69] Section 11 (4)**

*substitute*

- (4) On receiving an application under subsection (1) or (2), the registrar must—
- (a) direct the holding of a conference between the parties; or
  - (b) if satisfied that there is not a reasonable possibility of the parties settling the issues in dispute at a conference—direct the holding of an inquiry into the application.

**[1.70] Section 11**

*renumber subsections when Act next republished under Legislation Act*



**[1.71] Section 12 (1)**

*substitute*

- (1) The Small Claims Court may hold an inquiry on an application under section 11 under a direction of the registrar under that section or the rules.

**[1.72] Section 18 (3)**

*substitute*

- (3) This section does not limit the operation of any other Territory law (including the rules) that authorises or requires service of a document otherwise than as provided under this section.

**[1.73] Section 19 (1) (b)**

*substitute*

- (b) an order (however described) under the rules in relation to the enforcement of a determination mentioned in paragraph (a).

**[1.74] Part 4**

*omit*

## **Part 1.11 Community and Health Services Complaints Act 1993**

**[1.75] Section 39G (2)**

*substitute*

- (2) The *Magistrates Court Act 1930*, part 4.5 (Civil appeals), other than an excluded provision, applies in relation to the appeal.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including rules (see Legislation Act, s 104).

(3) In this section:

*excluded provision* means the following provisions of the *Magistrates Court Act 1930*:

- section 274 (Cases in which appeal may be brought)
- section 275 (Appeals—Small Claims Court).

## Part 1.12 Confiscation of Criminal Assets Act 2003

### [1.76] Section 239 (1) note

*substitute*

*Note* For the amount the Magistrates Court may award for a personal action at law, see the *Magistrates Court Act 1930*, s 257.

### [1.77] Section 239 (4) (b)

*substitute*

- (b) title to land is genuinely in question in the proceeding if the Magistrates Court would not have jurisdiction to hear the proceeding under the *Magistrates Court Act 1930*, section 264 (Proceedings affecting title to land).

## Part 1.13 Consumer and Trader Tribunal Act 2003

### [1.78] Section 17, note 2

*substitute*

*Note 2* A fee may be determined under the *Court Procedures Act 2004* for this provision.

**[1.79] Section 63**

*omit*

**Part 1.14 Consumer Credit  
(Administration) Act 1996**

**[1.80] Section 78**

*substitute*

**78 Referral of questions of law to Supreme Court**

- (1) If the tribunal considers that a question of law raises an issue of public importance, the tribunal may refer the question to the Supreme Court.
- (2) The tribunal may act under subsection (1) on its own initiative or on application by a party.

**[1.81] Division 4.5**

*substitute*

**Division 4.5 Appeals to Supreme Court**

**94 Appeals from tribunal decisions**

- (1) A party to a tribunal proceeding may, with the Supreme Court's leave, appeal to the court on a question of law from a decision of the tribunal in the proceeding.
- (2) An appeal by a person under subsection (1) must be begun within—
  - (a) 28 days after the day a document setting out the tribunal's decision is given to the person; or

- (b) if the person has asked for a statement of reasons under section 93 (2)—28 days after the day the statement is given to the person; or
  - (c) any further time the Supreme Court allows (whether on, before or after a day mentioned in paragraph (a) or (b)).
- (3) The Supreme Court must decide the appeal, and may make any of the following orders:
- (a) an order confirming or setting aside the decision of the tribunal;
  - (b) an order remitting the case to be heard and decided again, either with or without the hearing of further evidence, by the tribunal in accordance with the court's directions;
  - (c) an order for costs.
- (4) The Supreme Court may also make any other order the court considers appropriate.
- (5) This section applies in relation to a decision of the tribunal made on or after the day this section commences.
- (6) Subsection (5) and this subsection expire 1 year after the day this section commences.

## **95 Appeals from Magistrates Court decisions**

- (1) An appeal may be made to the Supreme Court from a decision of the Magistrates Court under the consumer credit legislation.
- (2) The *Magistrates Court Act 1930*, part 4.5 (Civil appeals) applies to a decision of the Magistrates Court under the consumer credit legislation as if it were a judgment or order of the court in a proceeding that it has jurisdiction to hear and decide under that Act, chapter 4 (Civil proceedings).

---

## **Part 1.15 Coroners Act 1997**

**[1.82] Section 3 (1), definition of *chief police officer***

*omit*

**[1.83] Section 3 (1), definition of *custodial officer*, paragraph (a)**

*substitute*

(a) a police officer; or

**[1.84] Section 16, note**

*omit*

**[1.85] Sections 43 heading**

*substitute*

**43 Power of coroner to subpoena witnesses etc**

**[1.86] Sections 43, 44 and 45**

*omit*

summons

*substitute*

subpoena

**[1.87] Section 45 (2)**

*omit*

members of the police force

*substitute*

police officers

**[1.88] Section 45 (2) and (3)**

*omit*

member of the police force

*substitute*

police officer

**[1.89] Section 45 (5) (b) (i)**

*substitute*

- (i) the declaration is taken to be the declaration of the forfeiture of a recognisance under the *Magistrates Court Act 1930*, section 254 (Enforcement of recognisance); and

**[1.90] Section 48 (2) (b)**

*substitute*

- (b) if a person appears before a coroner under a subpoena—require the person to give evidence or produce a document or thing stated in the subpoena.

**[1.91] Section 49**

*substitute*

**49 Record of proceedings**

- (1) In this section:

*relevant provisions* means the following provisions of the *Magistrates Court Act 1930*:

- section 314 (Registrar to give directions for preparation of transcripts)
- section 315 (Applications for transcripts)
- section 316 (Record of proceedings)

- section 317 (Record of proceedings and transcript).
- (2) The relevant provisions apply in relation to the depositions of a witness who gives evidence at a hearing as if the depositions were depositions in a proceeding in the Magistrates Court and as if—
  - (a) a reference to the Magistrates Court were a reference to a coroner; and
  - (b) a reference to the registrar of the Magistrates Court were a reference to the registrar of the Coroner’s Court; and
  - (c) in section 315—the following subsection were substituted for subsection (2):
    - ‘(2) A person is entitled to a copy of a record made at an inquest or inquiry only if the person has satisfied the registrar or a coroner that the person has good reason for applying for the copy.’; and
  - (d) in section 316 (6)—proceedings at an inquest or inquiry were proceedings mentioned in that subsection; and
  - (e) all other necessary changes, and any changes prescribed under the regulations, were made.

**[1.92] Sections 62 (2) and 79 (1)**

*omit*

summons

*substitute*

subpoena

**[1.93] Section 85**

*omit*

summoned

*substitute*

subpoenaed

**[1.94] Sections 85 (c) and 98**

*omit*

summons

*substitute*

subpoena

**[1.95] Section 101**

*omit*

## **Part 1.16 Court Security Act 2001**

**[1.96] Section 5 (1) (b)**

*omit*

Act

*substitute*

part

**[1.97] Section 5 (2) (f)**

*substitute*

(f) the *Magistrates Court Act 1930*, section 310 (Hearings generally to be in public); and



**[1.98] Section 13 (1)**

*omit everything before paragraph (a), substitute*

- (1) If a person contravenes a requirement of a security officer under section 44 (Person may be required to state name etc), section 45 (Searches) or section 47 (Security officer may require thing that may hide firearms etc to be left), a security officer may require the person—

**[1.99] Sections 5 to 13 (as amended) and 15 to 17**

*relocate to Court Procedures Act 2004, part 5 as sections 41 to 52*

**[1.100] Dictionary, definition of *custodial escort***

*omit*

**[1.101] Dictionary, definition of *security officer*, paragraph (c)**

*substitute*

- (c) a person who is appointed as a security officer under section 51.

**[1.102] Dictionary, definitions (as amended)**

*relocate to Court Procedures Act 2004, part 5 in section 40*

## **Part 1.17 Crimes Act 1900**

**[1.103] Section 192 (1)**

*omit*

section 56 (4)

*substitute*

section 57 (5)

**[1.104] Section 192 (1)**

*omit*

section 72 (2)

*substitute*

section 73 (2)

**[1.105] Section 192 (5) (a) and (b)**

*substitute*

- (a) a firearm, ammunition or licence has been seized under subsection (1) for the purpose of enforcing an order mentioned in that subsection; and
- (b) the licence has not been cancelled or suspended under the *Protection Orders Act 2001*, section 38, section 57 or section 73.

**[1.106] Section 252, note**

*substitute*

*Note 1* If a form is approved under s 443 for a certificate, the form must be used.

*Note 2* If a form is approved under the *Court Procedures Act 2004* for a warrant, the form must be used.

**[1.107] Section 300, definition of *defendant***

*substitute*

*defendant*—see the *Magistrates Court Act 1930*, section 18A.

**[1.108] Section 350 (3), note**

*substitute*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.109] Section 357 (1) (a)**

*substitute*

- (a) a document has been filed in the court in relation to the convicted person; and

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.110] Section 408 (4), note**

*substitute*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.111] Section 439**

*omit*

## **Part 1.18 Crimes (Forensic Procedures) Act 2000**

**[1.112] Dictionary, definition of *warrant***

*omit*

division 4.5

*substitute*

division 3.3.4 (Warrants of arrest)

## Part 1.19 Crown Proceedings Act 1992

### [1.113] Sections 6 and 9

*omit*

Act

*substitute*

division

### [1.114] Section 12 (2)

*omit*

shall

*substitute*

must

### [1.115] Section 12 (3), definition of *Territory authority*

*substitute*

***Territory authority*** means a corporation established under an Act, but does not include a body declared under the *Financial Management Act 1996*, section 3B not to be a Territory authority.

### [1.116] Section 13 (7)

*substitute*

(7) In this section:

***Territory Crown***—see section 28 (3).

**[1.117] Section 14**

*omit*

Act

*substitute*

part

**[1.118] Sections 5 to 14 (as amended)**

*relocate to Court Procedures Act 2004, division 4.2 as sections 21 to 31*

**[1.119] Section 15 (1)**

*substitute*

- (1) If a proceeding is brought against the Territory, a statement containing the information prescribed under the regulations (if any) must be endorsed on, or annexed to, the process by which the proceeding is begun.

**[1.120] Section 15 (2)**

*omit*

Crown

**[1.121] Section 15 (as amended)**

*relocate to Court Procedures Act 2004, division 4.3 as section 32*

**[1.122] Section 16 (1)**

*omit*

Crown

**[1.123] Section 16 (2) (a)**

*omit*

Act

*substitute*

part

**[1.124] Section 16 (2) (b)**

*omit*

Crown

*substitute*

Territory

**[1.125] Section 16 (as amended)**

*relocate to Court Procedures Act 2004, division 4.3 as section 33*

**[1.126] Section 17 (1)**

*omit*

of the Crown

**[1.127] Section 17**

*omit*

shall

*substitute*

must

**[1.128] Section 17 (as amended)**

*relocate to Court Procedures Act 2004, division 4.3 as section 34*

---

**[1.129] Section 18 (1)**

*substitute*

- (1) In any legal proceeding, a document apparently signed by the Attorney-General is presumed to have been signed by the Attorney-General in the absence of evidence to the contrary.

**[1.130] Section 18 (2)**

*omit*

shall

*substitute*

must

**[1.131] Section 18 (as amended)**

*relocate to Law Officers Act 1992 as section 5B*

**[1.132] Section 19**

*substitute*

**19 Representation if right to legal representation restricted**

- (1) This section applies to a proceeding if—
- (a) the Territory or Attorney-General is a party to the proceeding;  
and
  - (b) an Act removes or restricts the right of a party to the proceeding to be represented by a lawyer.
- (2) The Territory or Attorney-General may be represented by a public servant (other than a lawyer, articled clerk or person who holds legal qualifications under a Territory law or the law of another place) who is authorised to conduct the proceeding on behalf of the Territory or Attorney-General.

- (3) In the proceeding, a document apparently signed by a relevant person that appears to be an authorisation under subsection (2) must be accepted as an authorisation in the absence of evidence to the contrary.
- (4) In this section:
- relevant person* means—
- (a) a Minister; or
  - (b) a chief executive; or
  - (c) the chief executive officer of a Territory agency or instrumentality.

**[1.133] Sections 19 (as amended)**

*relocate to Court Procedures Act 2004, division 4.3 as section 35*

**[1.134] Section 20**

*omit*

Act

*substitute*

part

**[1.135] Section 21**

*substitute*

**38 Regulations for pt 4**

The regulations may make provision in relation to—

- (a) the details to be stated or to accompany process served on the Territory; and
- (b) the service of process or other documents under this part.



**[1.136] Sections 20 and 21 (as amended)**

*relocate to Court Procedures Act 2004, division 4.4 as sections 36 and 37*

**Part 1.20**                      **Dental Technicians and Dental  
Prosthetists Registration Act  
1988**

**[1.137] Section 41 (4)**

*omit*

*Arrest on Mesne Process Act 1902, part 2*

*substitute*

*Court Procedures Act 2004, sections 63 to 69*

**[1.138] New section 41 (5)**

*insert*

- (5) Subsection (4) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

**Part 1.21**                      **Dentists Act 1931**

**[1.139] Section 78 (4)**

*omit*

*Arrest on Mesne Process Act 1902, part 2*

*substitute*

*Court Procedures Act 2004, sections 63 to 69*

**[1.140] New section 78 (5)**

*insert*

- (5) Subsection (4) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

## **Part 1.22 Discrimination Act 1991**

**[1.141] Section 108D**

*substitute*

### **108D Statement of reasons**

- (1) This section applies if—
- (a) the tribunal makes a decision in a hearing; and
  - (b) within 14 days after the day the decision is made a party to the hearing asks for a statement of reasons for the making of the decision.
- (2) The tribunal must give the party a written statement of reasons for the making of the decision.

*Note* The Legislation Act, s 179 deals with what must be included in a statement of reasons.

### **108DA Referral of questions of law to Supreme Court**

- (1) If the tribunal considers that a question of law raises an issue of public importance, the tribunal may refer the question to the Supreme Court.
- (2) The tribunal may act under subsection (1) on its own initiative or on application by a party.

**108DB Appeals from tribunal decisions**

- (1) A party to a tribunal hearing may, with the Supreme Court's leave, appeal to the court on a question of law from a decision of the tribunal in the hearing.
- (2) An appeal by a person under subsection (1) must be begun within—
  - (a) 28 days after the day the person is given written notice of the tribunal's decision under section 102 (5); or
  - (b) any further time the Supreme Court allows (whether on, before or after the day mentioned in paragraph (a)).
- (3) The Supreme Court must decide the appeal, and may make any of the following orders:
  - (a) an order confirming or setting aside the decision of the tribunal;
  - (b) an order remitting the case to be heard and decided again, either with or without the hearing of further evidence, by the tribunal in accordance with the court's directions;
  - (c) an order for costs.
- (4) The Supreme Court may also make any other order the court considers appropriate.
- (5) This section applies in relation to a decision of the tribunal made on or after the day this section commences.
- (6) Subsection (5) and this subsection expire 1 year after the day this section commences.

## Part 1.23 Domestic Relationships Act 1994

### [1.142] Section 10 (2)

*omit*

determine

*substitute*

decide

### [1.143] Section 10 (2) (b)

*omit*

with respect

*substitute*

in relation

### [1.144] Section 10 (3), definition of *jurisdictional limit*

*substitute*

*jurisdictional limit* means the maximum amount that may be claimed in a personal action at law that the Magistrates Court has jurisdiction to hear and decide under the *Magistrates Court Act 1930*.

## Part 1.24 Earnings (Assignment and Attachment) Act 1966

### [1.145] Section 4, definition of *earnings*

*omit everything after*

illness or

*to*

(Cwlth).

*substitute*

injury.

**[1.146] Section 4, definition of *earnings* (as amended)**

*relocate to Court Procedures Act 2004 in section 53 (3)*

**[1.147] Section 4, remaining definitions**

*relocate to Court Procedures Act 2004 in section 76*

**[1.148] Section 5**

*relocate to Court Procedures Act 2004, division 7.3 as section 77*

## **Part 1.25 Electoral Act 1992**

**[1.149] Section 264 (1)**

*omit*

in accordance with the *Supreme Court Rules*

## **Part 1.26 Evidence Act 1971**

**[1.150] Section 41**

*omit*

**[1.151] Sections 42 and 45**

*after*

appropriate rules of court

*insert*

under the *Court Procedures Act 2004*

## Part 1.27 Government Procurement Act 2001

### [1.152] Section 45 (3)

*substitute*

- (3) Interest is payable at the rate worked out in accordance with the rules under the *Court Procedures Act 2004* applying to the Supreme Court as if the unpaid amount were a judgment of the Supreme Court.

## Part 1.28 Guardianship and Management of Property Act 1991

### [1.153] Section 56 (3)

*omit everything before paragraph (a), substitute*

- (3) An appeal must be made—

### [1.154] Section 56 (4)

*omit*

determine

*substitute*

decide

## Part 1.29 Health Professions Boards (Procedures) Act 1981

### [1.155] Section 34 (2), note

*omit*

---

## Part 1.30 Health Records (Privacy and Access) Act 1997

### [1.156] Section 32 (2)

*substitute*

- (2) The *Magistrates Court Act 1930*, part 4.5 (Civil appeals), other than an excluded provision, applies in relation to the appeal.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including rules (see Legislation Act, s 104).

- (3) In this section:

*excluded provision* means the following provisions of the *Magistrates Court Act 1930*:

- section 274 (Cases in which appeal may be brought)
- section 275 (Appeals—Small Claims Court).

## Part 1.31 Judgment Creditors Remedies Act 1901

### [1.157] Section 19

*omit*

Act

*substitute*

division

**[1.158] Section 21**

*substitute*

**21 Exception for certain actions**

Section 87 and section 88 do not apply to a writ issued for libel, slander or any malicious injury.

**[1.159] Sections 19 to 26 (as amended)**

*relocate to Court Procedures Act 2004, division 7.6 as sections 87 to 93*

## **Part 1.32 Judiciary (Stay of Proceedings) Act 1933**

**[1.160] Section 5**

*substitute*

**5 Recission or variation of previous direction or order**

- (1) A court may, on the application of any party, rescind or vary any direction or order previously made by it under this division.
- (2) In this section:

*party* means party to the proceeding in connection with which the direction or order was made.

**[1.161] Sections 3 to 5 (as amended)**

*relocate to Court Procedures Act 2004, division 7.4 as sections 80 to 82*



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## **Part 1.33                      Juries Act 1967**

### **[1.162]    Sections 23, 24 (11) and 42B, notes**

*omit*

### **[1.163]    Section 44AA (4)**

*substitute*

- (4) An order under subsection (3) (a) is enforceable as if it were a judgment given by the Magistrates Court in a personal action at law that it has jurisdiction to hear and decide under the *Magistrates Court Act 1930*, chapter 4 (Civil proceedings).

## **Part 1.34                      Leases (Commercial and Retail) Act 2001**

### **[1.164]    Section 144 (1)**

*omit*

determine

*substitute*

decide

### **[1.165]    Section 144 (3) (a)**

*substitute*

- (a) exercise any power that could be exercised by the court under the *Magistrates Court Act 1930*, chapter 4 (Civil proceedings); and

*Note*      A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and rules (see Legislation Act, s 104).

**[1.166] Section 145 (2)**

*substitute*

- (2) An application in relation to a dispute to which this Act applies cannot be made under the *Magistrates Court Act 1930*, chapter 4 (Civil proceedings)

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and rules (see Legislation Act, s 104).

**[1.167] Section 151 (2) and (4)**

*omit*

*Magistrates Court (Civil Jurisdiction) Act 1982*

*substitute*

*Magistrates Court (Civil Jurisdiction) Rules 2004*

**[1.168] New section 151 (5)**

*insert*

- (5) Subsections (2) and (4) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3) or, if the rules under that Act fix an earlier day for this subsection, that day.

**[1.169] Section 156 (a)**

*omit*

affirming

*substitute*

confirming

**[1.170] Section 158 (2)**

*substitute*

- (2) The regulations may provide that words used in a lease, or a mortgage for leased premises have a wider meaning than that set out in the lease or mortgage, and may prescribe the meaning.

**Part 1.35 Legal Aid Act 1977**

**[1.171] Section 95A (2)**

*substitute*

- (2) The amount of interest must be worked out at the rate percentage per year as follows:
- (a) if the amount under section 31 is payable on or after 15 July 1992 but before the day mentioned in paragraph (b)—
    - (i) for 15 July 1992 to and including 14 January 1993—11.5%; and
    - (ii) for 15 January 1993 to and including 31 January 1994—10%; and
    - (iii) for 1 February 1994 to and including 31 July 1995—9%; and
    - (iv) for 1 August 1995 to and including 31 March 1997—10.75%; and
    - (v) for 1 April 1997 to and including 30 April 1998—9.55%; and
    - (vi) for 1 May 1998 to and including the day before the day mentioned in paragraph (b)—8.45%;
  - (b) if the amount under section 31 is payable on or after the day the *Court Procedures Act 2004* commences—at the rate

applying under the rules under that Act applying in relation to the Supreme Court.

## Part 1.36 Legal Practitioners Act 1970

### [1.172] Section 136, definition of *pecuniary loss*, paragraph (c)

*omit*

under the rules of court for the *Supreme Court Act 1933*, section 70

*substitute*

in accordance with the rules under the *Court Procedures Act 2004* applying to interest on judgments in the Supreme Court

## Part 1.37 Legislation Act 2001

### [1.173] Section 61 (12), definition of *appropriate person*, paragraph (b)

*substitute*

(b) for rules made or forms approved by the rule-making committee under the *Court Procedures Act 2004*—the secretary of the rule-making committee or someone else appointed by the Chief Justice for this definition; and

*Note* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

(ba) for any other rules made, or forms approved, for a tribunal—the registrar of the tribunal; and

### [1.174] Section 61 (12), definition of *appropriate person*

*renumber paragraphs when Act next republished under Legislation Act*

**[1.175] Section 300 (1)**

*substitute*

- (1) The parliamentary counsel may delegate the parliamentary counsel's functions under this Act or another Territory law to a public servant.

*Note* For the making of delegations and the exercise of delegated functions, see pt 19.4.

**[1.176] Schedule 1, part 1.1, items about Set-off of Debts Act 1728, Set-off of Debts Act 1735, Foreign Tribunals Evidence Act 1856, Evidence by Commission Act 1859, Evidence by Commission Act 1885, Judgment Creditors Remedies Act 1901 and Arrest on Mesne Process Act 1902**

*omit*

**[1.177] Schedule 1, part 1.1**

*renumber items when Act next republished under Legislation Act*

**[1.178] Dictionary, part 1, new definition of *Small Claims Court***

*insert*

*Small Claims Court* means the Magistrates Court when it is exercising jurisdiction under the *Magistrates Court Act 1930*, part 4.6.

## **Part 1.38 Liquor Act 1975**

**[1.179] Section 170, note**

*omit*

## Part 1.39 Litter Act 1977

### [1.180] Section 11 (2)

*substitute*

- (2) An order under subsection (1) is enforceable as if it were a judgment given by the Magistrates Court in a personal action at law that it has jurisdiction to hear and decide under the *Magistrates Court Act 1930*, chapter 4 (Civil proceedings).

## Part 1.40 Magistrates Court Act 1930

### [1.181] Part 1 heading

*substitute*

## Chapter 1 Preliminary

### [1.182] New sections 2 and 3

*insert*

#### 2 Dictionary

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*registered operator*, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.’ means that the term ‘registered operator’ is defined in that dictionary and applies to part 3.8.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### **3 Notes**

- (1) A note included in this Act is explanatory and is not part of this Act.

*Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

- (2) In this section:

*note* includes material enclosed in brackets in section headings.

*Note* For comparison, a number of sections of this Act contain bracketed notes (eg MC (CJ) Act, s 4) in their headings drawing attention to equivalent or comparable (though not necessarily identical provisions of the *Magistrates Court (Civil Jurisdiction) Act 1982* (repealed).

- (3) Subsection (2), this subsection, and the material enclosed in brackets in section headings, expire 1 year after the day this section commences.

#### **[1.183] Sections 5 and 6**

*omit*

#### **[1.184] New chapter 2 heading and part 2.1 heading**

*after section 6, insert*

## **Chapter 2 Magistrates Court and magistrates**

### **Part 2.1 The court**

#### **Explanatory note**

Existing section 18 is relocated to this part as section 4 by another amendment in this schedule.

#### **[1.185] Part 2**

*renumber as part 2.2*

**[1.186] Division 2.1 heading**

*substitute*

**Division 2.2.1 Appointment of magistrates**

**[1.187] Section 6A heading**

*substitute*

**6A Meaning of *magistrate* in div 2.2.1**

**[1.188] Section 10G**

*omit*

(1)

**[1.189] Division 2.2**

*renumber as division 2.2.2*

**[1.190] Division 2.3 heading**

*substitute*

**Division 2.2.3 Registrar and other court officers**

**[1.191] Division 2.4**

*renumber as division 2.2.4*

**[1.192] Section 16 (3)**

*omit*



**[1.193] New part 2.3 heading**

*after section 17, insert*

**Part 2.3 Protection of magistrates in  
execution of their office**

**Explanatory note**

Existing sections 231 to 243 are relocated to this part as sections 17A to 17K by another amendment in this schedule.

**[1.194] Part 3 heading and division 3.1 heading**

*omit*

**[1.195] Section 18 (1)**

*substitute*

- (1) The Magistrates Court is continued in existence.

**[1.196] Section 18 (3)**

*omit*

determination

*substitute*

deciding

**[1.197] Section 18 (as amended)**

*relocate to part 2.1 as section 4*

**[1.198] New chapter 3 heading and part 3.1**

*after section 18, insert*

## **Chapter 3 Criminal proceedings**

### **Part 3.1 Preliminary**

#### **18A Definitions for ch 3**

In this chapter:

*administrator* means the remand centre administrator.

*Crimes Act* means the *Crimes Act 1900*.

*decision* includes a committal for trial, admission to bail, and a conviction, order or other decision.

*defendant* means a person against whom an information is laid.

*escort* means a custodial escort.

*superintendent*, for a remand centre, means the superintendent for the centre under the *Remand Centres Act 1976*.

**[1.199] Division 3.2 heading**

*substitute*

## **Part 3.2 Criminal jurisdiction**

### **[1.200] Section 19 (1)**

*omit*

determined

*substitute*

decided

### **[1.201] Section 23 (2)**

*omit*

subsection (1)

*substitute*

subrule (1)

### **[1.202] Section 23 (2)**

*omit*

section 116D

*substitute*

the *Magistrates Court Act 1930*, section 116D (Pleas to prescribed offence)

### **[1.203] Section 23 (3)**

*omit*

section 116B

*substitute*

the *Magistrates Court Act 1930*, section 116B (Service of summons for prescribed offence)

**[1.204] Section 23 (3) (b)**

*omit*

section 116E (3)

*substitute*

the *Magistrates Court Act 1930*, section 116E (3) (Procedure if plea of guilty entered)

**[1.205] Section 23 (3) (c)**

*omit*

section 116F or 116H

*substitute*

the *Magistrates Court Act 1930*, section 116F (Procedure if notice of intention to defend given) or section 116H (Restricted penalties under pt 3.7)

**[1.206] Section 23 (4)**

*omit*

subsection (3)

*substitute*

subrule (3)

**[1.207] Section 23 (7)**

*omit*

this Act

*substitute*

the *Magistrates Court Act 1930*

**[1.208] Section 23 (8)**

*omit*

this section

*substitute*

this rule

**[1.209] Section 23 (9)**

*omit*

subsection (8)

*substitute*

subrule (8)

**[1.210] Section 23 (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 10*

**[1.211] Section 23AA (1)**

*omit*

subsection (2)

*substitute*

subrule (2)

**[1.212] Section 23AA (2)**

*omit*

subsection (1)

*substitute*

subrule (1)

**[1.213] Section 23AA (2)**

*omit*

section 116D

*substitute*

the *Magistrates Court Act 1930*, section 116D (Pleas to prescribed offence)

**[1.214] Section 23AA (3) and (4)**

*omit*

section

*substitute*

rule

**[1.215] Section 23AA (4)**

*omit*

this Act

*substitute*

the *Magistrates Court Act 1930*

**[1.216] Section 23AA (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 11*

**[1.217] Section 23A**

*omit*

**Explanatory note**

This section is replaced by new section 263 that is inserted by another amendment in this schedule.

**[1.218] Section 23B (13)**

*omit*

part 11

*substitute*

part 3.10 (Criminal appeals)

**[1.219] Part 4 heading**

*substitute*

## **Part 3.3 Beginning criminal proceedings**

**[1.220] Division 4.1 heading**

*substitute*

### **Division 3.3.1 Beginning criminal proceedings— general**

**[1.221] Divisions 4.2, 4.4 and 4.5**

*renumber as divisions 3.3.2, 3.3.3 and 3.3.4*

**[1.222] Part 5 heading**

*substitute*

## **Part 3.4 Hearing of criminal proceedings**

**[1.223] Division 5.1 heading**

*substitute*

### **Division 3.4.1 Hearing of criminal proceedings— general**

**[1.224] Section 51 heading**

*substitute*

**51 Hearings generally to be in public**

**[1.225] Section 51 (1)**

*substitute*

- (1) The hearing of a proceeding before the Magistrates Court must be in public.

**[1.226] Section 51 (2)**

*omit*

If

*substitute*

However, if

**[1.227] New section 51 (4) and (5)**

*insert*

- (4) Subsection (1)—
- (a) does not apply in relation to a civil matter that, under another Territory law, may be dealt with otherwise than in open court; and
  - (b) is subject to any other Territory law that restricts who may be present at a hearing.
- (5) This section applies in relation to the conduct of a conference or inquiry in the Small Claims Court as if—
- (a) a reference to the hearing of a proceeding were a reference to the conduct of the conference or inquiry; and



- (b) a reference to the magistrate presiding were a reference to the person presiding at the conference or inquiry; and
- (c) all other necessary changes, and any other changes prescribed under the rules, were made.

**[1.228] Section 51 (as amended)**

*relocate to part 5.2 as section 310*

**[1.229] Section 54A heading**

*substitute*

**54A Record of proceedings**

**[1.230] Section 54A (6) (iii)**

*omit*

section 23A

*substitute*

section 263 (Requests under conventions relating to legal proceedings in civil and commercial matters)

**[1.231] Section 54A (as amended)**

*relocate to part 5.2 as section 316*

**[1.232] Division 5.2 heading**

*substitute*

**Division 3.4.2 Evidence in criminal proceedings**

**[1.233] Section 60 (1), (2) (b) (i) and (3) (a)**

*omit*

section 54A (2)

*substitute*

section 316 (2)

**[1.234] Section 60 (3) (b)**

*omit*

section 255B (2) or 255C (6)

*substitute*

section 314 (2) or section 315 (6)

**[1.235] Section 60 (4) (a)**

*omit*

section 54A (3)

*substitute*

section 316 (3)

**[1.236] Section 60 (4) (b)**

*omit*

section 255C (6)

*substitute*

section 315 (6)

**[1.237] Section 60 (5), definition of *recording apparatus***

*omit*

section 54A (2)

*substitute*

section 316 (2)

**[1.238] Section 60 (as amended)**

*relocate to part 5.2 as section 317*

**[1.239] Section 60A**

*relocate to Magistrates Court Rules 1932, part 4 as rule 12*

**[1.240] Section 61 heading**

*substitute*

**61 Power of magistrate to subpoena witness**

**[1.241] Section 61 (1)**

*omit*

summons

*substitute*

subpoena

**[1.242] Section 61 (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 13*

**[1.243] Section 62**

*omit*

summons

*substitute*

subpoena

**[1.244] New section 62 (4)**

*insert*

(4) In this rule:

*subpoena* includes summons.

**[1.245] Section 62 (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 14*

**[1.246] Section 62A**

*relocate to Magistrates Court Rules 1932, part 4 as rule 15*

**[1.247] Section 63**

*omit*

If

*substitute*

(1) If

**[1.248] Section 63 (b) and (c)**

*omit*

summons

*substitute*

subpoena

**[1.249] New section 63 (2) and (3)**

*insert*

(2) In this section:

*subpoena* includes summons.

(3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

**[1.250] Section 64**

*omit*

summons

*substitute*

subpoena

**[1.251] Section 66 (1)**

*omit*

summon

*substitute*

subpoena

**[1.252] Section 66 (2)**

*omit*

summons

*substitute*

subpoena

**[1.253] Section 66 (2)**

*omit*

duces tecum

**[1.254] Section 66 (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 16*

**[1.255] Section 66A**

*omit*

summons

*substitute*

subpoena

**[1.256] Section 66A (1)**

*omit*

section 61 or 66

*substitute*

rule 13 (Power of magistrate to subpoena witness) or rule 16  
(Production of documents before magistrate)

**[1.257] Section 66A (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 17*

**[1.258] Section 67 heading**

*omit*

**Territory**

*substitute*

**the ACT**

**[1.259] Section 67 (1)**

*omit*

Territory

*substitute*

ACT

**[1.260] Section 67 (4)**

*omit*

section 54A

*substitute*

section 316 (Recordings of proceedings)

**[1.261] Section 67 (as amended)**

*relocate to part 5.2 as section 318*

**[1.262] Sections 67A and 67B**

*omit*

**[1.263] Section 68**

*omit*

section 67

*substitute*

section 318

**[1.264] Section 68**

*omit*

summoned

*substitute*

required by subpoena

**[1.265] Section 68 (as amended)**

*relocate to part 5.2 as section 319*

**[1.266] Section 69 (1)**

*omit*

section 67

*substitute*

section 318

**[1.267] Section 69 (1) (a)**

*omit*

section 54A

*substitute*

section 316

**[1.268] Section 69 (3)**

*omit*

Territory

*substitute*

ACT



---

**[1.269] Section 69 (as amended)**

*relocate to part 5.2 as section 320*

**[1.270] Division 5.3**

*renumber as division 3.4.3*

**[1.271] Section 72B**

*omit*

where section 254B

*substitute*

if section 311 (Appearance by audiovisual or audio links)

**[1.272] Division 5.4**

*renumber as division 3.4.4*

**[1.273] Section 73A**

*substitute*

**73A Extended application of div 3.4.4**

- (1) This division applies in relation to a person for whom a warrant prescribed under the rules has been issued under the rules as if all necessary changes, and any changes prescribed under the rules, were made.
- (2) This section does not limit any other application of this division.

**[1.274] Section 76**

*omit*

section 255AB

*substitute*

section 312 (Failure to give evidence—committal)

**[1.275] Section 78**

*omit*

the provisions of division 4.5

*substitute*

division 3.3.4 (Warrants of arrest)

**[1.276] Division 5.5 heading**

*substitute*

**Division 3.4.5 Adjourment of criminal proceedings**

**[1.277] Part 6 heading**

*substitute*

**Part 3.5 Proceedings for indictable offences**

**[1.278] Division 6.1A**

*renumber as division 3.5.1*

**[1.279] Section 88A heading**

*substitute*

**88A Meaning of *jury* in pt 3.5**

**[1.280] Division 6.1 heading**

*substitute*

**Division 3.5.2 Indictable offences—beginning of proceedings**

**[1.281] Section 90A (12) (b)**

*substitute*

- (b) the Supreme Court may exercise any power that the Magistrates Court might have exercised under division 3.4.3 (Remand) if the order had been an order made by the Magistrates Court adjourning the proceedings to the specified time and place, and that division applies in relation to the accused person.

**[1.282] Division 6.2 heading**

*substitute*

**Division 3.5.3 Indictable offences—proceedings  
after hearing of evidence**

**[1.283] Section 95 (d)**

*omit*

section 54A (3)

*substitute*

section 316 (3)

**[1.284] Section 95 (e)**

*omit*

section 54A (2)

*substitute*

section 316 (2)

**[1.285] Division 6.2A heading**

*substitute*

**Division 3.5.4 Indictable offences—costs**

**[1.286] Division 6.3 heading**

*substitute*

**Division 3.5.5 Indictable offences—witness  
recognisances**

**[1.287] Division 6.4 heading**

*substitute*

**Division 3.5.6 Indictable offences—other provisions**

**[1.288] New section 105A**

*in division 3.5.6, insert*

**105A References to *certified copies* of depositions**

In this division, a reference to a *certified copy* of depositions is a reference to—

- (a) if a record of the depositions was made in accordance with section 316 (2)—a transcript of the record certified in accordance with section 314 (2); or
- (b) if the depositions were taken down in writing and signed in accordance with section 316 (3)—the depositions as taken down and signed.

**[1.289] Part 7**

*renumber as part 3.6*

**[1.290] Section 108A (b)**

*omit*

Territory

*substitute*

ACT

**[1.291] Part 7A**

*renumber as part 3.7*

**[1.292] Section 116A heading**

*substitute*

**116A Interpretation for pt 3.7**

**[1.293] Section 116A (1), new definition of *law in force in the ACT***

*insert*

*law in force in the ACT* includes a statute of the Australian National University about parking or traffic.

**[1.294] Section 116A (4)**

*omit*

**[1.295] Section 116AA heading**

*substitute*

**116AA Meaning of *prescribed offence* for pt 3.7**

**[1.296] Section 116AA (1)**

*omit*

Territory

*substitute*

ACT

**[1.297] Section 116B heading**

*substitute*

**166B Service of summons for prescribed offence**

**[1.298] Section 116B, new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.299] Section 116D heading**

*substitute*

**116D Pleas to prescribed offence**

**[1.300] Section 116H heading**

*substitute*

**116H Restricted penalties under pt 3.7**

**[1.301] Section 116I (c)**

*omit*

section 23

*substitute*

the rules

---

**[1.302] Part 8**

*renumber as part 3.8*

**[1.303] Division 8.1**

*renumber as division 3.8.1*

**[1.304] Section 117 heading**

*substitute*

**117 Definitions for pt 3.8**

**[1.305] Section 117, definition of *authorised person***

*substitute*

*authorised person*—see section 134A (3).

**[1.306] Section 118 heading**

*substitute*

**118 Purpose and effect of pt 3.8**

**[1.307] Division 8.2**

*renumber as division 3.8.2*

**[1.308] Division 8.3 heading**

*substitute*

**Division 3.8.3 Disputing liability for infringement notices**

**[1.309] Division 8.4 heading**

*substitute*

**Division 3.8.4 Infringement notices—other provisions**

**[1.310] Part 9 heading**

*substitute*

**Part 3.9 Enforcement of criminal decisions**

**[1.311] Division 9.1 heading**

*substitute*

**Division 3.9.1 Enforcement of criminal decisions—general**

**[1.312] Division 9.2**

*renumber as division 3.9.2*

**[1.313] Section 146 heading**

*substitute*

**146 Definitions for div 3.9.2**

**[1.314] Section 146, definition of *chief police officer***

*omit*

**[1.315] Section 146, definition of *Territory entity***

*substitute*

*Territory entity*—see the *Auditor-General Act 1996*, dictionary.



**[1.316] Section 150 (1) (a)**

*omit*

section 248A (1)

*substitute*

the *Court Procedures Act 2004*, part 3 (Court and tribunal fees)

**[1.317] Section 154A (3) (b) (i)**

*substitute*

- (i) the person has been served with the summons in accordance with the *Magistrates Court (Civil Jurisdiction) Rules 2004*, section 297 as applied by rule 20; or

**[1.318] Section 154A (3)**

*omit everything after paragraph (b), substitute*

the registrar must issue a warrant in accordance with the *Magistrates Court (Civil Jurisdiction) Rules 2004*, section 303 as applied by rule 20 for the apprehension of the person to whom the summons was directed.

**[1.319] Section 154A (4)**

*omit*

subsection (1)

*substitute*

subrule (1)

**[1.320] New section 154A (5)**

*insert*

- (5) In this rule:

*fine*—see the *Magistrates Court Act 1930*, section 146.

**[1.321] Section 154A (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 18*

**[1.322] Section 154B (1)**

*substitute*

- (1) If the registrar is satisfied that a fine defaulter has the capacity to pay an outstanding fine, the registrar may—
- (a) make a garnishee order under the *Magistrates Court (Civil Jurisdiction) Rules 2004*, section 319 as applied by rule 20 in relation to the outstanding fine; or
  - (b) issue a writ of execution under the *Magistrates Court (Civil Jurisdiction) Rules 2004*, section 343 (2) and (3) as applied by rule 20 against goods of the fine defaulter to enforce the outstanding fine.

**[1.323] New section 154B (3)**

*insert*

- (3) In this rule:

*fine defaulter*—see the *Magistrates Court Act 1930*, section 146.

*outstanding fine*—see the *Magistrates Court Act 1930*, section 146.

**[1.324] Section 154B (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 19*

---

**[1.325] Section 154C heading**

*substitute*

**154C Application of Magistrates Court (Civil Jurisdiction)  
Rules, pt 19**

**[1.326] Section 154C (1)**

*substitute*

- (1) The purpose of this rule is to ensure, as far as practicable, that—
- (a) a fine defaulter may be examined under rule 18 (Ascertainment of capacity to pay fine) and dealt with in the same way as a judgment debtor in relation to whom an examination summons has been issued; and
  - (b) a garnishee order under rule 19 has the same effect as a garnishee order in relation to a judgment debtor; and
  - (c) a writ of execution under rule 19 has the same effect as a writ of execution against goods of a judgment debtor.

**[1.327] Section 154C (2)**

*omit*

For subsection (1) (a), the *Magistrates Court (Civil Jurisdiction) Act 1982*

*substitute*

For subrule (1) (a), the *Magistrates Court (Civil Jurisdiction) Rules 2004*

**[1.328] Section 154C (3)**

*omit*

For subsection (1) (b), the *Magistrates Court (Civil Jurisdiction) Act 1982*

*substitute*

For subrule (1) (b), the *Magistrates Court (Civil Jurisdiction) Rules 2004*

**[1.329] Section 154C (4)**

*omit*

For subsection (1) (c), the *Magistrates Court (Civil Jurisdiction) Act 1982*

*substitute*

For subrule (1) (c), the *Magistrates Court (Civil Jurisdiction) Rules 2004*

**[1.330] Section 154C (5)**

*omit*

subsections (2), (3) and (4)

*substitute*

subrules (2), (3) and (4)

**[1.331] Section 154C (5) (b)**

*omit*

section 154B (1) (a)

*substitute*

rule 19 (1) (a)

**[1.332] Section 154C (5) (c)**

*omit*

section 154B (1) (b)

*substitute*

rule 19 (1) (b)

**[1.333] Section 154C (6) and (7)**

*omit*

subsection (2), (3) or (4)

*substitute*

subrule (2), (3) or (4)

**[1.334] Section 154C (8) and (9)**

*substitute*

- (8) If—
- (a) a provision of the *Magistrates Court (Civil Jurisdiction) Rules 2004* applies in relation to a matter; and
  - (b) a provision of other rules or a determination under the *Court Procedures Act 2004* also applies in relation to the matter; and
  - (c) the provision of the *Magistrates Court (Civil Jurisdiction) Rules 2004* is applied to a corresponding matter by subrule (2), (3) or (4);
- a reference in this rule to the applied provision mentioned in paragraph (c) includes a reference to the provision mentioned in paragraph (b).
- (9) A reference in this rule to an applied provision by number is a reference to the provision so numbered of the *Magistrates Court (Civil Jurisdiction) Rules 2004*, as applied by subrule (2), (3) or (4).

(10) In this rule:

*fine defaulter*—see the *Magistrates Court Act 1930*, section 146.

**[1.335] Section 154C (as amended)**

*relocate to Magistrate Court Rules 1932, part 4 as rule 20*

**[1.336] Section 157 (1)**

*omit*

section 255A

*substitute*

section 313 (Commitment to remand centre)

**[1.337] Division 9.2A**

*renumber as division 3.9.3*

**[1.338] Section 166A heading**

*substitute*

**166A Definitions for div 3.9.3**

**[1.339] Section 166A, definition of State**

*omit*

and the Jervis Bay Territory

**[1.340] Section 166C (2) (c)**

*omit*

*the Magistrates Court (Civil Jurisdiction) Act 1982*

*substitute*

the rules applying to civil proceedings in the Magistrates Court

**[1.341] Section 166C (6)**

*omit*

Notwithstanding section 190, if

*substitute*

If

**[1.342] Division 9.6 heading**

*substitute*

**Division 3.9.4 Enforcement of criminal decisions—  
other provisions**

**[1.343] Section 191 heading**

*substitute*

**191 Accounts to be kept of amounts received**

**[1.344] Section 191**

*omit*

, in accordance with the approved form

**[1.345] Section 191, new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.346] Part 11 heading**

*substitute*

**Part 3.10 Criminal appeals**

**[1.347] Division 11.1 heading**

*substitute*

**Division 3.10.1 Criminal appeals—jurisdiction of  
Supreme Court**

**[1.348] Section 207 (1)**

*omit*

under this Act

*substitute*

under this Act (other than chapter 4 (Civil proceedings))

**[1.349] Section 207 (1) (a)**

*omit*

division 11.2

*substitute*

division 3.10.2 (Appeals in criminal matters)

**[1.350] Section 207 (1) (b)**

*omit*

division 11.3

*substitute*

division 3.10.3 (Orders to review in criminal matters)

**[1.351] Division 11.2 heading**

*substitute*

**Division 3.10.2 Appeals in criminal matters**



---

**[1.352] Section 208 heading**

*substitute*

**208 Appeals to which division 3.10.2 applies**

**[1.353] Section 208 (1) (a)**

*omit*

part 7, part 7A or section 255

*substitute*

part 3.6 (Proceedings for offences punishable summarily), part 3.7 (Service and pleading by post for certain offences) or section 290 (Contempt in face of court)

**[1.354] Section 208 (1) (b)**

*omit*

part 7

*substitute*

part 3.6

**[1.355] Section 208 (1) (c)**

*omit*

255, or part 7 or 7A

*substitute*

290, part 3.6 or part 3.7

**[1.356] Section 214 (1)**

*substitute*

- (1) This section applies to an appeal mentioned in section 208 (Appeals to which div 3.10.2 applies).

**[1.357] Section 218 (1) (a)**

*omit*

affirm

*substitute*

confirm

**[1.358] Section 218 (1) (c)**

*omit*

determination

*substitute*

decision

**[1.359] Section 219 heading**

*substitute*

**219 Barring right of appeal under div 3.10.2 if order to review granted**

**[1.360] Section 219 (1)**

*omit*

division 11.3

*substitute*

division 3.10.3 (Orders to review in criminal matters)

**[1.361] Section 219 (2)**

*omit*

division 11.3

*substitute*

division 3.10.3

**[1.362] Division 11.3 heading**

*substitute*

**Division 3.10.3 Orders to review in criminal matters**

**[1.363] Section 219B (1) (a)**

*omit*

part 7 or 7A

*substitute*

part 3.6 (Proceedings for offences punishable summarily) or part 3.7 (Service and pleading by post for certain offences)

**[1.364] Section 219B (1) (b)**

*omit*

part 7 or 7A

*substitute*

part 3.6 or part 3.7

**[1.365] Section 219B (1) (c)**

*omit*

part 7

*substitute*

part 3.6

**[1.366] Section 219B (1) (f)**

*omit*

part 7 or 7A or section 255

*substitute*

part 3.6, part 3.7 or section 290 (Contempt in face of court)

**[1.367] Section 219F (2) (b)**

*omit*

part 6

*substitute*

part 3.5

**[1.368] Division 11.4 heading**

*substitute*

**Division 3.10.4 Criminal appeals—other provisions**

**[1.369] Part 12 heading**

*omit*

**[1.370] Sections 231 to 243**

*relocate to part 2.3 as sections 17A to 17K*

**[1.371] Part 13 heading**

*substitute*

**Part 3.11 Costs in criminal matters**

**[1.372] Section 244 heading**

*substitute*

**244 Award of costs in criminal matters**

**[1.373] Section 244 (d)**

*substitute*

- (d) an amount awarded or ordered to be paid by an informant, or to a defendant, for costs may be recovered under the rules about the enforcement of judgments of the court in civil proceedings;

**[1.374] Section 244 (f)**

*omit*

summoned; but their allowance for attendance shall in no case exceed the highest rate of allowance prescribed;

*substitute*

subpoened.

**[1.375] Section 244 (g)**

*omit*

**[1.376] Section 247**

*omit*

section 244

*substitute*

the *Magistrates Court Act 1930*, section 244 (Award of costs in criminal matters)

**[1.377] Section 247 (as amended)**

*relocate to Magistrates Court Rules 1932, part 4 as rule 21*

**[1.378] Part 13A**

*omit*

**[1.379] Part 14 heading**

*substitute*

## **Part 3.12 Securities in criminal matters**

**[1.380] Section 249**

*omit*

under this Act

*substitute*

under this Act (other than chapter 4 (Civil proceedings))

**[1.381] Section 249 (1)**

*omit*

, in such manner and form as are prescribed

**[1.382] Section 249 (1), new note**

*insert*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.383] Section 249 (2)**

*omit*

or as is prescribed

**[1.384] Sections 250 to 253**

*omit*

under this Act

*substitute*

under this Act (other than chapter 4 (Civil proceedings))

**[1.385] Section 254A**

*relocate to part 5.2 as section 309*

**[1.386] New chapter 4**

*after section 254A, insert*

## **Chapter 4 Civil proceedings**

### **Part 4.1 Preliminary**

#### **256 Application of ch 4 ((MC (CJ) Act, s 4)**

This chapter does not apply in relation to—

- (a) a proceeding under the *Protection Orders Act 2001*; or
- (b) a proceeding under the *Workers Compensation Act 1951*; or

- (c) a proceeding on an information for an offence.

## Part 4.2 Civil jurisdiction

### 257 Personal actions at law—amount or value (MC (CJ) Act, s 5)

- (1) The Magistrates Court has jurisdiction to hear and decide any personal action at law if the amount claimed is not more than \$50 000, including a personal action at law if—
  - (a) the amount claimed is the amount owing on a balance of account, after an admitted set-off or otherwise; or
  - (b) any amount in excess of \$50 000 to which the plaintiff may be entitled in relation to the cause of action is abandoned in accordance with the rules.
- (2) If the amount claimed in a personal action includes interest up to judgment, or a lump sum instead of interest, in accordance with the rules, the interest is disregarded in working out whether or not the court has jurisdiction.
- (3) For this section, a *personal action at law* includes an action relating to the detention of goods, and the amount claimed in the action is the value of the goods plus any amount claimed for damages for the detention of the goods.
- (4) Subsection (1) does not limit the court's jurisdiction if, under another law in force in the ACT, an amount may be recovered by action in the court (even if the amount is more than \$50 000).
- (5) The court's jurisdiction under subsection (1) is additional to any jurisdiction that the court has under any other law in force in the ACT.



**258 Power of court to grant relief (MC (CJ) Act, s 6)**

- (1) In any proceeding that the Magistrates Court has jurisdiction to hear and decide—
  - (a) the court may grant any relief, redress or remedy that the Supreme Court may grant in a similar action in that court, and for that purpose the Magistrates Court may make any order that the Supreme Court may make; and
  - (b) the court must give effect to any ground of defence, counterclaim or set-off, whether equitable or legal, in the same way and to the same extent that the Supreme Court would do.
- (2) For the exercise by the Magistrates Court of its powers under subsection (1) in any proceeding—
  - (a) a magistrate constituting the court has, as well as any other powers under this Act, all the powers of a judge in a similar action in the Supreme Court; and
  - (b) the registrar, bailiff or other appropriate officer of the Magistrates Court must exercise any function that a corresponding officer of the Supreme Court would exercise in a similar action in that court in accordance with the practice and procedure of that court.
- (3) In exercising a function mentioned in subsection (2), the registrar, a bailiff or other officer of the court must comply with this Act, the rules and any order of the Magistrates Court.

**259 Rules of equity to prevail (MC (CJ) Act, s 7)**

In any proceeding in the Magistrates Court, if there is a conflict between the rules of equity and the rules of common law, the rules of equity prevail.

**260 Nuisance (MC (CJ) Act, s 8 (1) and (2))**

- (1) The Magistrates Court has the same jurisdiction as the Supreme Court to hear and decide a civil action for nuisance.
- (2) In a civil action for nuisance, the Magistrates Court may grant the same relief as the Supreme Court may grant in a similar action in that court.

**261 Disputed debts (MC (CJ) Act, s 9)**

- (1) The Magistrates Court may, in a proceeding in the court, declare that—
  - (a) a person is or is not indebted to someone else; or
  - (b) a person is or is not indebted to someone else in a stated amount; or
  - (c) a person is or is not indebted to someone else in an amount that is more than a stated amount.
- (2) This section applies only in relation to a debt that is not more than \$50 000.

**262 Cause of action arising, or defendant resident, outside ACT (MC (CJ) Act, s 10)**

The Magistrates Court has jurisdiction to hear and decide a proceeding if—

- (a) the defendant was resident in the ACT when the claim was served on the defendant, even though all of the cause of action in the proceeding arose outside the ACT; or

- (b) both of the following apply, even though the defendant is not in the ACT:
- (i) a material part of the cause of action in the proceeding arose in the ACT, even though part of the cause of action arose outside the ACT;
  - (ii) the claim is served on the defendant in Australia or an external Territory.

**263 Requests under conventions relating to legal proceedings in civil and commercial matters**

- (1) The Magistrates Court has jurisdiction to make any order or take any action necessary to comply with a request received from the consular or other authority of a relevant foreign country for serving documents in the ACT or taking evidence in the ACT.
- (2) In this section:
- relevant foreign country*—a foreign country is a *relevant foreign country* if a convention relating to legal proceedings in civil and commercial matters is in force between the country and Australia.

**264 Proceedings affecting title to land (MC (CJ) Act, s 11)**

- (1) The Magistrates Court does not have jurisdiction to hear and decide a proceeding in which the title to land is genuinely in question.
- (2) However, the jurisdiction of the Magistrates Court to hear and decide a proceeding is not affected only because the title to land incidentally comes in question in the proceeding.
- (3) In a proceeding mentioned in subsection (2), a judgment is not evidence of title to land.

**265 Disputes under Residential Tenancies Act (MC (CJ) Act, s 12A)**

The Magistrates Court does not have jurisdiction in relation to a dispute to which the *Residential Tenancies Act 1997* applies if the amount in dispute is not more than \$10 000.

**266 Complaints under Utilities Act, pt 12 (MC (CJ) Act, s 12B)**

The Magistrates Court does not have jurisdiction in relation to a matter to the extent to which it is the subject of—

- (a) a complaint under the *Utilities Act 2000*, part 12 (Complaints);  
or
- (b) a direction or declaration of the essential services consumer council under that part.

### **Part 4.3 Case stated for Supreme Court**

**267 Case stated (MC (CJ) Act, s 194, s 395 (2))**

- (1) On the application of a party to a proceeding in the Magistrates Court, the court may state, in the form of a special case, any question of law that arises in the proceeding for the opinion of the Supreme Court.
- (2) The Supreme Court has jurisdiction to hear and decide a case stated under this section.
- (3) This section does not apply to a proceeding in the Small Claims Court.

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## Part 4.4                      Transfer of proceedings from or to Supreme Court

### 268                      **Transfer of action from Supreme Court (MC (CJ) Act, s 381)**

- (1) This section applies if a proceeding in relation to the cause of action on which a prescribed action pending in the Supreme Court is founded could properly have been begun in the Magistrates Court.
- (2) The Supreme Court may, on the application of a party to the action or its own initiative, order that the action be transferred to the Magistrates Court if it considers it just to do so.
- (3) In subsection (1):

*prescribed action* means an action in which the amount claimed (whether initially or as reduced by payment, admitted set-off or otherwise) is not more than the amount for which the Magistrates Court has jurisdiction under this chapter.

### 269                      **Procedure on transfer of action from Supreme Court (MC (CJ) Act, s 382)**

- (1) This section applies if the Supreme Court has made an order under section 268 that an action pending in the Supreme Court be transferred to the Magistrates Court.
- (2) A party to the action may file in the Magistrates Court a copy of the order, a copy of each of the pleadings (if any) in the action and any other relevant documents filed in the Supreme Court.
- (3) When the copies have been filed, the action—
  - (a) stops being an action in the Supreme Court; and
  - (b) becomes a proceeding in the Magistrates Court.

- (4) The proceeding is taken to have been begun in the Magistrates Court on the day the action was begun in the Supreme Court.
- (5) Costs in the proceeding are to be allowed—
  - (a) for costs incurred before the order under section 268 was made (including the costs of getting the order) and the costs of getting the copies mentioned in subsection (2)—in accordance with the rules under the *Court Procedures Act 2004* applying to the Supreme Court, but subject to any Supreme Court order; and
  - (b) for costs incurred after the order was made (not including the costs of getting the copies)—in accordance with the rules applying to the Magistrates Court.
- (6) If costs mentioned in subsection (5) (a) are to be taxed, the costs must be taxed by the registrar in accordance with the rules applying to the Supreme Court.

**270 Removal of proceedings into Supreme Court (MC (CJ) Act, s 383)**

On the application of a party to a proceeding in the Magistrates Court, the Supreme Court may order that the proceeding be removed into the Supreme Court on the conditions about costs, security for the amount claimed or costs, or otherwise, that the Supreme Court considers just.

**271 Stay of proceedings (MC (CJ) Act, s 384)**

- (1) This section applies if an application under section 270 to have a proceeding in the Magistrates Court removed into the Supreme Court is pending.
- (2) On the application of a party to the proceeding, the Supreme Court may order that the proceeding be stayed until the application under section 270 is decided or until the Supreme Court orders otherwise.

- (3) An order that a proceeding be stayed takes effect immediately on a copy of the order being filed in the Magistrates Court.

## **Part 4.5 Civil appeals**

### **272 Definitions for pt 4.5 (MC (CJ) Act, s 385)**

In this part:

*appeal* means an appeal to the Supreme Court—

- (a) from a judgment or order of the Magistrates Court, whether final or interlocutory, in a proceeding that the Magistrates Court has jurisdiction to hear and decide under this chapter, other than a proceeding in its jurisdiction under part 4.6 (Small Claims Court); or

- (b) from a judgment of the Small Claims Court.

*judgment*, in relation to a proceeding in the Small Claims Court, includes an order made in association with the proceeding, but does not include an interim order of the Small Claims Court under the rules.

### **273 Jurisdiction (MC (CJ) Act, s 386)**

- (1) The jurisdiction of the Supreme Court to hear and decide appeals is subject to the exceptions and conditions in this part.
- (2) Subsection (1) does not affect the operation of any other law that provides for the appellate jurisdiction of the Supreme Court.

### **274 Cases in which appeal may be brought (MC (CJ) Act, s 387)**

- (1) An appeal may be brought only with the leave of the Supreme Court.

- (2) However, an appeal may be brought as of right from a judgment or order—
  - (a) for, or for the payment of, an amount of \$2 000 or more; or
  - (b) in a proceeding in the Magistrates Court—
    - (i) in which the matter in issue amounts to, or is of the value of, \$2 000 or more; or
    - (ii) that involves directly or indirectly a claim, demand or question to or in relation to any property or any civil right amounting to, or of the value of, \$2 000 or more.
- (3) This section does not apply in relation to an appeal from a judgment of the Small Claims Court.

**275 Appeals—Small Claims Court (MC (CJ) Act, s 387A)**

- (1) A party to a proceeding in the Small Claims Court may, with the Supreme Court’s leave, appeal from a judgment of the Small Claims Court in the proceeding.
- (2) The Supreme Court may grant leave only if satisfied—
  - (a) that the decision of the Small Claims Court on a question of law was wrong; or
  - (b) that the conduct of the proceeding in the Small Claims Court was unfair to the applicant for leave to appeal.

**276 Evidence on appeal (MC (CJ) Act, s 391)**

In an appeal, the Supreme Court must have regard to the evidence given in the proceeding in the Magistrates Court out of which the appeal arose, and has power to draw inferences of fact and, in its discretion, to receive further evidence.



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**277 Powers of Supreme Court on appeal (MC (CJ) Act, s 393)**

- (1) On an appeal, the Supreme Court has the following powers in relation to the judgment or order appealed from:
  - (a) to confirm, reverse or vary the judgment or order;
  - (b) to give any judgment or make any order it considers appropriate, or refuse to make an order;
  - (c) to set aside the judgment or order (completely or in part), and remit the proceeding to the Magistrates Court for further hearing and decision, subject to any directions the Supreme Court considers appropriate;
  - (d) to award execution from the Supreme Court or remit the proceeding to the Magistrates Court for the execution of the judgment or order of the Supreme Court.
- (2) A judgment or order of the Supreme Court made in a proceeding remitted under subsection (1) (d) has effect as if it were a judgment or order of the Magistrates Court and may be enforced by the Magistrates Court accordingly.
- (3) In this section:

*Magistrates Court*, in relation to an appeal from a judgment or order of the Small Claims Court, means the Small Claims Court.

## **Part 4.6 Small Claims Court**

**278 Definitions for pt 4.6 (MC (CJ) Act, s 394)**

*applicant* means a person making an application.

*application* means an application to the Small Claims Court, whether made under the rules or another Territory law.

***common boundaries determination*** means a determination under the *Common Boundaries Act 1981*, and includes a variation of a determination.

***contract application*** means an application in relation to a contract, and includes an application for damages for breach of contract.

***damages application*** means an application for damages for negligence or for any other tort except nuisance or trespass.

***debt application*** means an application for the recovery of a debt.

***debt declaration***, in relation to a proceeding, means an order declaring that—

- (a) the applicant is or is not indebted to the respondent; or
- (b) the applicant is or is not indebted to the respondent in a stated amount; or
- (c) the applicant is or is not indebted to the respondent in an amount that is more than a stated amount.

***goods application*** means an application in relation to the provision of goods or services, and includes an application for damages for the detention of goods.

***inquiry*** means an inquiry by the Small Claims Court under the rules.

***nuisance application*** means an application for relief for nuisance.

***proceeding*** means a proceeding on an application.

***referee*** means a referee appointed under this part.

***respondent*** means the respondent to an application.

***rules*** means rules under the *Court Procedures Act 2004* applying in relation to the Small Claims Court.

***trespass application*** means an application for relief for trespass to land.

**279 Small Claims Court (MC (CJ) Act, s 396)**

- (1) The Magistrates Court has jurisdiction to inquire into and decide applications for this part.
- (2) The Magistrates Court is to be known as the Small Claims Court when exercising jurisdiction under this part.

**280 Referees—appointment (MC (CJ) Act, s 397)**

- (1) The Executive may appoint a person as a referee for this part.

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) A person is eligible for appointment as a referee if the person is—
  - (a) a lawyer; and
  - (b) a member of the staff of the Magistrates Court or any other entity exercising judicial powers under a Territory law.
- (3) A person's appointment as referee ends if the person is no longer eligible for appointment under subsection (2).

*Note* A person's appointment also ends if the person resigns (see Legislation Act, s 210).

**281 Referees—functions (MC (CJ) Act, s 398)**

- (1) A referee may exercise the jurisdiction of the Small Claims Court in an inquiry in a proceeding by way of a contract application, damages application, debt application or goods application, or for a debt declaration or common boundaries determination.
- (2) However, a referee only has jurisdiction in a proceeding in relation to an amount of not more than \$3 000, or the equivalent value of goods or services (including any associated damages), excluding

any claim for interest, or for a lump sum instead of interest, decided by the Small Claims Court under the rules.

- (3) In exercising the jurisdiction of the Small Claims Court under this section, a referee—
- (a) has all the functions of a magistrate; and
  - (b) is otherwise taken to be a magistrate for all purposes.

**282 Referees—oath or affirmation of office (MC (CJ) Act, s 399)**

- (1) Before exercising functions as a referee, a referee must take an oath, or make an affirmation, before the Chief Justice.
- (2) An oath or affirmation under subsection (1) must be in accordance with the form in schedule 1.

**283 Jurisdiction (MC (CJ) Act, s 401)**

- (1) The Small Claims Court has jurisdiction to inquire into the following applications:
- (a) contract applications;
  - (b) damages applications;
  - (c) debt applications;
  - (d) goods applications;
  - (e) nuisance applications;
  - (f) trespass applications;
  - (g) applications for debt declarations;
  - (h) applications for common boundaries determinations.

- (2) Section 257 (Personal actions at law—amount or value) and 261 (Disputed debts) do not apply to proceedings in the Small Claims Court.

**284      \$10 000 limit (MC (CJ) Act, s 402)**

- (1) The Small Claims Court's jurisdiction is limited to applications claiming amounts of not more than \$10 000.
- (2) In relation to debt declarations, the Small Claims Court's jurisdiction is limited to applications for declarations for debts of not more than \$10 000.
- (3) The monetary limit on the Small Claims Court's jurisdiction does not include any claim for interest, or for a lump sum instead of interest, decided by the Small Claims Court under the rules.
- (4) In a goods application, the amount claimed is the value of the goods or services plus any amount claimed for damages for the detention of the goods.
- (5) If, apart from this section, a person would be entitled to make an application claiming an amount of more than \$10 000, the person may, by the application, abandon the excess by limiting the claim to \$10 000.
- (6) This section does not apply to an application for a common boundaries determination.

**285      Admissibility of conference proceedings in inquiries  
(MC (CJ) Act, s 427)**

Evidence, or any statement, of words spoken or acts done at a conference under the rules is not admissible in an inquiry, unless the parties otherwise agree.

**[1.387] Part 15 heading**

*substitute*

## **Chapter 5 Miscellaneous**

### **Part 5.1 Offences**

#### **Explanatory note**

After the amendments made by this schedule, this part will consist of the following sections:

- s 290 (prev this Act, s 255)
- s 291 (prev this Act, s 255AA)
- s 292 (prev MC (CJ) Act, s 8 (2))
- s 293 (prev MC (CJ) Act, s 187 (7))
- s 294 (prev MC (CJ) Act, s 217 (4))
- s 295 (prev MC (CJ) Act, s 329 (2))
- s 296 (prev MC (CJ) Act, s 337 (1))
- s 297 (prev MC (CJ) Act, s 340 (1))
- s 298 (prev MC (CJ) Act, s 341)
- s 299 (prev MC (CJ) Act, s 379)
- s 300 (prev MC (CJ) Act, s 448 (1))
- s 301 (prev MC (CJ) Act, s 449)
- s 302 (prev MC (CJ) Act, s 460 (2))

**[1.388] New section 254B (3A)**

*insert*

- (3A) A reference in this Act to *appearance* in a proceeding, whether by a party or anyone else, includes, if this section applies, appearance in accordance with this section.

**[1.389] Section 254B**

*renumber subsections when Act next republished under Legislation Act*

**[1.390] Section 254B (as amended)**

*relocate to part 5.2 as section 311*

**[1.391] Section 255 (3)**

*omit*

section 254B

*substitute*

section 311 (Appearance by audiovisual or audio links)

**[1.392] Section 255**

*renumber as section 290*

**[1.393] Section 255AA heading**

*substitute*

**255AA Failure to give evidence—offence**

**[1.394] Section 255AA (1) (b)**

*substitute*

- (b) attends, or is brought, before the registrar for examination under the rules.

**[1.395] Section 255AA (2)**

*insert*

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.396] Section 255AA**

*relocate to part 5.1 as section 291*

**[1.397] Section 255AB heading**

*substitute*

**255AB Failure to give evidence—committal**

**[1.398] Section 255AB (1) (a)**

*omit*

section 255AA

*substitute*

section 291 (Failure to give evidence—offence)

**[1.399] Section 255AB (1) (b)**

*substitute*

- (b) on hearing a matter referred to it in relation to the examination of a person before the registrar under the rules, the court is satisfied that the person has contravened section 291;

**[1.400] Section 255AB (1) (d) (ii), (2) (c) and (4)**

*omit*

section 255AA

*substitute*

section 291



**[1.401] Section 255AB (as amended)**

*relocate to part 5.2 as section 312*

**[1.402] Section 255A**

*relocate to part 5.2 as section 313*

**[1.403] Section 255B (1)**

*omit*

section 54A (2)

*substitute*

section 316 (2)

**[1.404] Section 255B (as amended)**

*relocate to part 5.2 as section 314*

**[1.405] Section 255C (1) (a) and (b)**

*omit*

section 54A (2)

*substitute*

section 316 (2)

**[1.406] Section 255C (1) (c)**

*omit*

section 54A (3)

*substitute*

section 316 (3)

**[1.407] Section 255C (4)**

*omit*

section 248A (1)

*substitute*

the *Court Procedures Act 2004*, part 3

**[1.408] Section 255C (7) (a)**

*omit*

section 54A (2)

*substitute*

section 316 (2)

**[1.409] Section 255C (8)**

*omit*

section 248A (1)

*substitute*

the *Court Procedures Act 2004*, part 3

**[1.410] Section 255C**

*renumber subsections when Act next republished under Legislation Act*

**[1.411] Section 255C (as amended)**

*relocate to part 5.2 as section 315*

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**[1.412] Sections 256 and 258**

*substitute*

- 292 Failure to comply with order in nuisance action (MC (CJ) Act, s 8 (2))**
- 293 Failure to comply with Magistrates Court subpoena (MC (CJ) Act, s 187 (7))**
- (2) In this section:  
*subpoena* includes summons.
- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).
- 294 Failure to comply with judgment for delivery of detained goods (MC (CJ) Act, s 217 (4))**
- 295 False or misleading statement by garnishee (MC (CJ) Act, s 329 (2))**
- 296 Obligations of judgment creditor if garnishee pays too much (MC (CJ) Act, s 337 (1))**
- 297 Notice to be given if judgment debtor ceases employment (MC (CJ) Act, s 340 (1))**
- 300 Failure to comply with Small Claims Court subpoena (MC (CJ) Act, s 448 (1))**
- (2) In this section:  
*subpoena* includes summons.
- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

**302 Contravention of Small Claims Court order in trespass proceeding (MC (CJ) Act, s 460 (2))**

**Part 5.2 Other**

**321 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**Explanatory note**

After the amendments made by this schedule, this part will consist of the following sections:

- s 309 (prev this Act, s 254A)
- s 310 (prev this Act, s 51)
- s 311 (prev this Act, s 254B)
- s 312 (prev this Act, s 255AB)
- s 313 (prev this Act, s 255A)
- s 314 (prev this Act, s 255B)
- s 315 (prev this Act, s 255C)
- s 316 (prev this Act, s 54A)
- s 317 (prev this Act, s 60)
- s 318 (prev this Act, s 67)
- s 319 (prev this Act, s 68)
- s 320 (prev this Act, s 69)
- s 321 (prev this Act, s 258)

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**[1.413] New Dictionary**

*insert*

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- custodial escort
- function
- judge
- lawyer
- remand centre
- remand centre administrator.

***administering authority***, for an infringement notice offence, for part 3.8 (Infringement notices for certain offences)—see section 117.

***administrator***, for chapter 3 (Criminal proceedings)—see section 18A.

***another jurisdiction***, for part 3.8 (Infringement notices for certain offences)—see section 117.

***appeal***, for part 4.5 (Civil appeals)—see section 272.

***appearance***—see section 311 (3A).

***applicant***, for part 4.6 (Small Claims Court)—see section 278.

***application***, for part 4.6 (Small Claims Court)—see section 278.

***authorised person***, for part 3.8 (Infringement notices for certain offences)—see section 134A (3).

***bailiff*** means a bailiff under this Act.

**certified copies**, of depositions, for division 3.5.6 (Indictable offences—other provisions)—see section 105A.

**claim** means a claim under the rules.

**common boundaries determination**, for part 4.6 (Small Claims Court)—see section 278.

**contract application**, for part 4.6 (Small Claims Court)—see section 278.

**conviction**—

- (a) means conviction by a magistrate for an offence; and
- (b) for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

**court** means the Magistrates Court.

**Crimes Act**, for chapter 3 (Criminal proceedings)—see section 18A.

**damages application**, for part 4.6 (Small Claims Court)—see section 278.

**date of service**, of an infringement notice or reminder notice that has been, or is to be, served on a person, for part 3.8 (Infringement notices for certain offences)—see section 117.

**debt application**, for part 4.6 (Small Claims Court)—see section 278.

**debt declaration**, in relation to a proceeding, for part 4.6 (Small Claims Court)—see section 278.

**decision**, for chapter 3 (Criminal proceedings)—see section 18A.

**default notice**, for division 3.9.2 (Enforcement of fines)—see section 146.

***defendant***—

- (a) for chapter 3 (Criminal proceedings)—see section 18A; and
- (b) for part 3.7 (Service and pleading by post for certain offences)—see section 116A (1).

***driver***, of a vehicle, for part 3.8 (Infringement notices for certain offences)—see section 117.

***escort***, for chapter 3 (Criminal proceedings)—see section 18A.

***fine***—

- (a) for division 3.9.2 (Enforcement of fines)—see section 146; and
- (b) for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

***fine defaulter***, for division 3.9.2 (Enforcement of fines)—see section 146.

***goods application***, for part 4.6 (Small Claims Court)—see section 278.

***government agency***, for division 3.9.2 (Enforcement of fines)—see section 146.

***hearing*** includes the examination of a person charged with an indictable offence.

***home address***, of a person, for part 3.8 (Infringement notices for certain offences)—see section 117.

***illegal user declaration***, for part 3.8 (Infringement notices for certain offences)—see section 131D.

***indictable offence*** means an offence that may be prosecuted before the Supreme Court by charge or indictment.

***indictment*** means an information for an indictable offence presented by an authorised officer to a court with jurisdiction to try the accused person.

***information*** includes a complaint brought to enforce a criminal penalty or forfeiture under a Territory law.

***infringement notice***, for part 3.8 (Infringement notices for certain offences)—see section 117.

***infringement notice offence***, for part 3.8 (Infringement notices for certain offences)—see section 117.

***infringement notice penalty***, for a person for an infringement notice offence, for part 3.8 (Infringement notices for certain offences)—see section 117.

***inquiry***, for part 4.6 (Small Claims Court)—see section 278.

***judgment***, in relation to a proceeding in the Small Claims Court, for part 4.5 (Civil appeals)—see section 272.

***jury***, for part 3.5 (Proceedings for indictable offences)—see section 88A.

***known offender declaration***, for part 3.8 (Infringement notices for certain offences)—see section 131E.

***law in force in the ACT***, for part 3.7 (Service and pleading by post for certain offences)—see section 116A (1).

***magistrate***—

- (a) means the Chief Magistrate, a magistrate, or a special magistrate and, if a function of a magistrate is exercisable by a registrar, includes a registrar exercising the function; and
- (b) for division 2.2.1 (Appointment of Chief Magistrate and magistrates)—see section 6A.



***nuisance application***, for part 4.6 (Small Claims Court)—see section 278.

***outstanding fine***, for division 3.9.2 (Enforcement of fines)—see section 146.

***penalty notice***, for division 3.9.2 (Enforcement of fines)—see section 146.

***prescribed offence***, for part 3.7 (Service and pleading by post for certain offences)—see section 116AA.

***proceeding***, for part 4.6 (Small Claims Court)—see section 278.

***reciprocating court***, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

***referee***, for part 4.6 (Small Claims Court)—see section 278.

***registered***, for a vehicle, for part 3.8 (Infringement notices for certain offences)—see section 117.

***registered operator***, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

***registrar*** means the registrar of the Magistrates Court, and includes a deputy registrar of the court.

***relevant officer***, in relation to a reciprocating court, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

***reminder notice***, for part 3.8 (Infringement notices for certain offences)—see section 117.

***respondent***, for part 4.6 (Small Claims Court)—see section 278.

***responsible person***, for a vehicle, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (General) Act 1999*, section 10 and section 11.

*rules*—

- (a) means rules under the *Court Procedures Act 2004* applying in relation to the Magistrates Court; and
- (b) for part 4.6 (Small Claims Court) —see section 278.

***Small Claims Court*** means the Magistrates Court when it is exercising jurisdiction under part 4.6.

***sold vehicle declaration***, for part 3.8 (Infringement notices for certain offences)—see section 131F.

***State***, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

***summary conviction*** means conviction by a magistrate for an offence.

***superintendent***, for a remand centre, for chapter 3 (Criminal proceedings)—see section 18A.

***Territory entity***, for division 3.9.2 (Enforcement of fines)—see the Auditor General Act 1996, dictionary.

***Territory fine***, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

***trader's plate***, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

***trespass application***, for part 4.6 (Small Claims Court)—see section 278.

***unknown offender declaration***, for part 3.8 (Infringement notices for certain offences)—see section 131G.

***vehicle***, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

**Part 1.41**                      **Magistrates Court (Agents  
Infringement Notices)  
Regulations 2003**

**[1.414] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

**[1.415] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

**[1.416] Regulation 7**

*omit*

part 8

*substitute*

part 3.8

## **Part 1.42** **Magistrates Court (Charitable Collections Infringement Notices) Regulations 2003**

### **[1.417] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

### **[1.418] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

### **[1.419] Regulation 7**

*omit*

part 8

*substitute*

part 3.8

## **Part 1.43**                      **Magistrates Court (Fisheries Infringement Notices) Regulations 2004**

### **[1.420] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

### **[1.421] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

### **[1.422] Regulation 7**

*omit*

part 8

*substitute*

part 3.8

## Part 1.44 Magistrates Court (Hawkers Infringement Notices) Regulations 2003

### [1.423] Regulation 3

*omit*

part 8

*substitute*

part 3.8

### [1.424] Regulation 3, note

*omit*

pt 8

*substitute*

pt 3.8

### [1.425] Regulation 7

*omit*

part 8

*substitute*

part 3.8

## **Part 1.45**                      **Magistrates Court (Lakes Infringement Notices) Regulations 2004**

### **[1.426] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

### **[1.427] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

### **[1.428] Regulation 6**

*omit*

part 8

*substitute*

part 3.8

**Part 1.46**                      **Magistrates Court (Land  
Planning and Environment  
Infringement Notices)  
Regulations 2003**

**[1.429] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

**[1.430] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

**[1.431] Regulation 7**

*omit*

part 8

*substitute*

part 3.8



**Part 1.47**                      **Magistrates Court (Security  
Industry Infringement Notices)  
Regulations 2003**

**[1.432] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

**[1.433] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

**[1.434] Regulation 7**

*omit*

part 8

*substitute*

part 3.8

## Part 1.48 Magistrates Court (Trade Measurement Infringement Notices) Regulations 2002

### [1.435] Regulation 3

*omit*

part 8

*substitute*

part 3.8

### [1.436] Regulation 3, note

*omit*

pt 8

*substitute*

pt 3.8

### [1.437] Regulation 7

*omit*

part 8

*substitute*

part 3.8

## **Part 1.49**                      **Magistrates Court (Utilities Infringement Notices) Regulations 2002**

### **[1.438] Regulation 3**

*omit*

part 8

*substitute*

part 3.8

### **[1.439] Regulation 3, note**

*omit*

pt 8

*substitute*

pt 3.8

### **[1.440] Regulation 7**

*omit*

part 8

*substitute*

part 3.8

## Part 1.50 Magistrates Court Rules 1932

### [1.441] New rules 2, 3 and 3A

*insert*

#### 2 Certain references to *Act* or *the Act*

A reference to *Act* or *the Act*, without mentioning a particular Act, is a reference to the *Magistrates Court Act 1930*.

#### 3 Terms defined in Magistrates Court Act

A term defined in the *Magistrates Court Act 1930* has the same meaning in these rules.

#### 3A References to *rules* of Magistrates Court

A reference to the *rules* of the Magistrates Court is a reference to the rules under the *Court Procedures Act 2004* applying in relation to the Magistrates Court.

### [1.442] Rule 4

*omit*

the Act, section 256 (Forms)

*substitute*

the *Court Procedures Act 2004*

**[1.443] New part 4**

*insert*

## **Part 4 Criminal proceedings**

### **7 Examination of witnesses—application of Magistrates Court (Civil Jurisdiction) Rules**

The *Magistrates Court (Civil Jurisdiction) Rules 2004*, section 202 (Order for examination of witnesses) applies in relation to proceedings (*criminal proceedings*) on an information for an offence against a law in force in the ACT as if a reference to proceedings were a reference to criminal proceedings.

### **8 Affidavits—application of Magistrates Court (Civil Jurisdiction) Rules**

The following provisions of the *Magistrates Court (Civil Jurisdiction) Rules 2004* apply in relation to affidavits for use in a proceeding under the *Magistrates Court Act 1930*, chapter 3 (Criminal proceedings):

- section 203 (Time for swearing affidavits)
- section 204 (Form of affidavit)
- section 205 (Irregularity in affidavit)
- section 210 (Affidavit by illiterate or blind person)
- section 211 (Affidavit by person unable to understand English)
- section 212 (Annexures and exhibits to affidavits)
- section 213 (Alterations in affidavits)
- section 214 (Scandalous or offensive matter).

### **9 Warrants to which Act, div 3.4.4 applies (Act, s 73A)**

The *Magistrates Court Act 1930*, division 3.4.4 (Committal and recognisance) applies in relation to a person for whom a warrant has

been issued under the *Magistrates Court (Civil Jurisdiction) Rules 2004*.

**Explanatory note**

After the amendments made by this schedule, this part will consist of the following rules:

- r 10 (prev the *Magistrates Court Act 1930*, s 23)
- r 11 (prev the *Magistrates Court Act 1930*, s 23AA)
- r 12 (prev the *Magistrates Court Act 1930*, s 60A)
- r 13 (prev the *Magistrates Court Act 1930*, s 61)
- r 14 (prev the *Magistrates Court Act 1930*, s 62)
- r 15 (prev the *Magistrates Court Act 1930*, s 62A)
- r 16 (prev the *Magistrates Court Act 1930*, s 66)
- r 17 (prev the *Magistrates Court Act 1930*, s 66A)
- r 18 (prev the *Magistrates Court Act 1930*, s 154A)
- r 19 (prev the *Magistrates Court Act 1930*, s 154B)
- r 20 (prev the *Magistrates Court Act 1930*, s 154C)
- r 21 (prev the *Magistrates Court Act 1930*, s 247)

**[1.444] Rule 71**

*omit*

the Act, section 148

*substitute*

the *Magistrates Court Act 1930*, section 148

**[1.445] Rule 71**

*omit*

the Act, section 256 (Forms)

*substitute*

the *Court Procedures Act 2004*

**[1.446] Rule 97B (4)**

*omit*

the Act, section 256 (Forms)

*substitute*

the *Court Procedures Act 2004*

**[1.447] Rule 97B (5)**

*omit*

by the *Magistrates Court (Civil Jurisdiction) Act 1982*

*substitute*

under the *Magistrates Court (Civil Jurisdiction) Rules 2004*

**Part 1.51                      Magistrates Court (Civil  
Jurisdiction) Act 1982**

**Division 1.51.1            Amendments of pt 2**

**[1.448] Section 8 (2)**

*omit*

(2)

**[1.449] Section 8 (2)**

*omit*

proceedings referred to in subsection (1)

*substitute*

a civil action for nuisance

**[1.450] Section 8 (2) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 in section 292*

**Division 1.51.2 Amendments of pt 3**

**[1.451] Section 13 (2)**

*substitute*

- (2) If the registrar is satisfied that an originating process lodged with the registrar complies with these rules, the registrar must file the original of the process.

*Note* The *Court Procedures Act 2004*, s 14 provides that a determined fee is payable in advance in accordance with the determination. The *Legislation Act*, s 57 (3) (Fees payable in accordance with determination etc) provides that if a fee is payable in relation to a service mentioned in the determination (in this case, for filing the process) and the fee has not been paid in accordance with the determination, no-one is obliged to provide the service (ie the registrar is not obliged to file the process).

**[1.452] Section 18 (5) (c)**

*substitute*

- (c) the amount mentioned in the *Supreme Court Rules*, order 3 rule 2 (a), multiplied by the prescribed percentage; and



**[1.453] Section 19 (1)**

*omit*

under this Act

**[1.454] Section 20 (3)**

*omit*

this Act

*substitute*

these rules

**[1.455] Section 22 (1) and (2)**

*omit*

(other than this Act)

*substitute*

(other than the *Magistrates Court Act 1930*, chapter 4 and these rules)

**[1.456] New section 22A**

*in part 3, insert*

**22A Originating process struck out after 1 year**

- (1) An originating process is taken to be struck out 1 year after the day it is served if—
  - (a) notice of grounds of defence has not been filed; or
  - (b) judgment has not been entered or the matter not otherwise disposed of.
- (2) A person whose originating process has been struck out under this section may file a new originating process within 1 year after the

<b>Schedule 1</b>	Consequential amendments
<b>Part 1.51</b>	Magistrates Court (Civil Jurisdiction) Act 1982
<b>Division 1.51.3</b>	Amendments of pt 4

Amendment [1.457]

---

day it was struck out, even if the limitation period for the cause of action the subject of the originating process has ended.

- (3) This section applies to an originating process filed on or after the day this section commences.
- (4) Subsection (3) and this subsection expire 1 year after the day this section commences.

**[1.457] Part 3 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 3*

**Division 1.51.3 Amendments of pt 4**

**[1.458] Section 23**

*omit*

this Act

*substitute*

these rules

**[1.459] Part 4 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 4*

**Division 1.51.4 Amendment of pt 5**

**[1.460] Part 5**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 5*

## **Division 1.51.5      Amendments of pt 6**

### **[1.461]      Section 43**

*omit*

If, in proceedings

*substitute*

- (1) If, in proceedings

### **[1.462]      Section 43**

*omit*

costs as prescribed

*substitute*

the allowable costs

### **[1.463]      New section 43 (2)**

*insert*

- (2) In this section:

***allowable costs*** means the amount mentioned in the *Supreme Court Rules*, order 3 rule 3 (2), multiplied by the prescribed percentage.

### **[1.464]      Section 48 (1) and (3)**

*omit*

under this Act

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.6** Amendment of pt 7

Amendment [1.465]

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**[1.465] Section 50 (1)**

*omit*

this Act

*substitute*

these rules

**[1.466] Section 50 (2)**

*omit*

this Act applies

*substitute*

these rules apply

**[1.467] Part 6 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 6*

**Division 1.51.6 Amendment of pt 7**

**[1.468] Part 7**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 7*

**Division 1.51.7 Amendments of pt 8**

**[1.469] Sections 60 (1) and 63**

*omit*

this Act

*substitute*

these rules

**[1.470] Part 8 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 8*

**Division 1.51.8 Amendment of pt 9**

**[1.471] Part 9**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 9*

**Division 1.51.9 Amendments of pt 10**

**[1.472] Section 71**

*omit*  
this Act  
*substitute*  
these rules

**[1.473] Part 10 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 10*

**Division 1.51.10 Amendments of pt 11**

**[1.474] Sections 86 (3), 88 (1), 88 (6) and 98 (6)**

*omit*  
this Act  
*substitute*  
these rules

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.11** Amendments of pt 12

Amendment [1.475]

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**[1.475] Part 11 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 11*

**Division 1.51.11 Amendments of pt 12**

**[1.476] Section 100**

*omit*

this Act

*substitute*

these rules

**[1.477] Part 12 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 12*

**Division 1.51.12 Amendments of pt 13**

**[1.478] Sections 123 (4) (c), 125 (1), 130, 132 (1), 133, 138 (1), 173 and 177**

*omit*

this Act

*substitute*

these rules

**[1.479] Part 13 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 13*

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## **Division 1.51.13      Amendments of pt 14**

### **[1.480]      Section 179**

*omit*

this Act

*substitute*

these rules

### **[1.481]      Section 181**

*omit*

#### **Explanatory note**

This section is no longer necessary because of the *Magistrates Court Act 1930*, section 51 (which is relocated as section 310).

### **[1.482]      Division 14.3 heading**

*substitute*

## **Division 14.3              Subpoena to witness**

### **[1.483]      Section 187 heading**

*substitute*

#### **187              Issue of subpoena**

### **[1.484]      Section 187 (1) to (4)**

*omit*

summons

*substitute*

subpoena

**[1.485] Section 187 (5)**

*omit*

summonses

*substitute*

subpoena

**[1.486] Section 187 (7) (a)**

*substitute*

- (a) a subpoena issued under the rules to give evidence or produce a document or anything else (or both) has been served on a person in accordance with the rules; and

**[1.487] Section 187 (7) (b) and (c)**

*omit*

summons

*substitute*

subpoena

**[1.488] Section 187 (7)**

*relocate to Magistrates Court Act 1930, part 5.1 as section 293 (1)*

**[1.489] Section 187 (9)**

*omit*

subsection (7)

*substitute*

*the Magistrates Court Act 1930, section 293*



**[1.490] Section 187 (10)**

*omit*

summons

*substitute*

subpoena

**[1.491] Section 187 (10) (b)**

*omit*

duces tecum

**[1.492] Section 187**

*renumber subsections when rules next republished under  
Legislation Act*

**[1.493] Sections 188 to 190**

*omit*

summons

*substitute*

subpoena

**[1.494] Section 192**

*substitute*

**192 Stay of proceedings**

Proceedings may be stayed—

- (a) at any time by the court on the conditions the court considers just; or
- (b) in accordance with these rules.

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.14** Amendments of pt 15

Amendment [1.495]

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**[1.495] Division 14.5**

*omit*

**[1.496] Part 14 (as amended) (other than section 187 (7))**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 14*

**Division 1.51.14 Amendments of pt 15**

**[1.497] Section 199 (9)**

*omit*

**[1.498] Section 200 (1) (a)**

*omit*

summons

*substitute*

subpoena

**[1.499] Part 15 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 15*

**Division 1.51.15 Amendments of pt 16**

**[1.500] Section 217 (4)**

*omit*

(4)

**[1.501] Section 217 (4)**

*omit*

subsection (1) (a)

*substitute*

the rules for the delivery of detained goods

**[1.502] Section 217 (4) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 in section 294*

**[1.503] Section 217**

*renumber subsections when Act next republished under Legislation Act*

**[1.504] Section 220**

*omit*

this Act

*substitute*

these rules

**[1.505] Section 227**

*omit*

this Act

*substitute*

the *Magistrates Court Act 1930*, chapter 4 (Civil proceedings) or these rules

**[1.506] Section 228**

*omit*

this Act

*substitute*

these rules

**[1.507] Section 230**

*substitute*

**230 Interest up to judgment**

- (1) In a proceeding for the recovery of money (including a debt, damages or the value of goods), the court must, on application, unless good cause is shown to the contrary—
  - (a) order that interest be included in the amount for which judgment is given or entered—
    - (i) at the rate it considers appropriate on all or part of the amount; and
    - (ii) for all or part of the period between the day the cause of action arose and the day judgment takes effect; or
  - (b) order that a lump sum be included in the amount for which judgment is given or entered instead of interest worked out under paragraph (a).
- (2) Subsection (3) applies if—
  - (a) a proceeding has been begun for the recovery of a debt or liquidated damages; and
  - (b) payment of all or part of the debt or damages is made during the proceeding and before or without judgment being given or entered in relation to the debt or damages.

- (3) If this subsection applies, the court may, on application, order that interest be paid—
- (i) at the rate it considers appropriate on all or part of the amount paid; and
  - (ii) for all or part of the period between the day the cause of action arose and the day of the payment.
- (4) This section does not—
- (a) authorise the giving of interest on interest or a lump sum instead of interest on interest; or
  - (b) apply in relation to a debt on which interest is payable as of right because of agreement or otherwise; or
  - (c) affect the damages recoverable for the dishonour of a bill of exchange.
- (5) Subsection (6) applies if the amount for which judgment is given or entered (the **relevant amount**) includes, or if the court decides that the relevant amount includes, an amount (the **particular amount**) for—
- (a) compensation for liabilities incurred that do not carry interest as against the person claiming interest or claiming a lump sum instead of interest; or
  - (b) compensation for loss or damage to be incurred or suffered after the day judgment is given; or
  - (c) exemplary or punitive damages.
- (6) If this subsection applies, interest or a lump sum instead of interest, must not be given under subsection (1) in relation to the particular amount.

**[1.508] Section 231 (2)**

*substitute*

- (2) The amount of interest is to be worked out at the rate percentage per year as follows:
- (a) if a proceeding is begun on or after 15 July 1992 but before the day mentioned in paragraph (b)—
    - (i) for 15 July 1992 to and including 14 January 1993—11.5%; and
    - (ii) for 15 January 1993 to and including 31 January 1994—10%; and
    - (iii) for 1 February 1994 to and including 31 July 1995—9%; and
    - (iv) for 1 August 1995 to and including 31 March 1997—10.75%; and
    - (v) for 1 April 1997 to and including 30 April 1998—9.55%; and
    - (vi) for 1 May 1998 to and including the day before the day mentioned in paragraph (b)—8.45%;
  - (b) if a proceeding is begun on or after the day the *Court Procedures Act 2004* commences—at the rate applying under the rules under that Act applying in relation to the Supreme Court.

**[1.509] Section 234**

*substitute*

**234 Interest on judgments**

- (1) Unless the court orders otherwise, interest is payable on the amount of a judgment debt that is unpaid.

- (2) Interest under subsection (1) forms part of the judgment debt, but interest is not payable on interest.
- (3) Interest under subsection (1) is worked out—
  - (a) from the day the judgment took effect or from a later date (if any) decided by the court; and
  - (b) for any period before 10 April 1995—at the rate applying under the *Supreme Court Act 1933*, section 70 (Interest on judgments); and
  - (c) for any period on or after 10 April 1995 but before the period mentioned in paragraph (d)—at the rate applying under section 231 (2); and
  - (d) for any period on or after the commencement of the *Court Procedures Act 2004*—at the rate applying under the rules under that Act applying in relation to the Supreme Court.

**[1.510] Part 16 (as amended) (other than section 217 (4))**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 16*

**Division 1.51.16 Amendment of pt 17**

**[1.511] Part 17**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 17*

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.17** Amendments of pt 18

Amendment [1.512]

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## **Division 1.51.17 Amendments of pt 18**

### **[1.512] Sections 246 (b), 248 (2) and 250**

*omit*

this Act

*substitute*

these rules

### **[1.513] Section 256 heading**

*omit*

**Act**

*substitute*

**rules**

### **[1.514] Sections 256 and 259 (2) and (3)**

*omit*

this Act

*substitute*

these rules

### **[1.515] Section 259 (4)**

*omit*

sections 18 (4) (c) and 43, the prescribed costs

*substitute*

section 18 (5) (c) and section 43, the prescribed scale of costs



**[1.516] New section 259 (6)**

*insert*

(6) In this section:

*prescribed scale of costs* means the scale of costs applying from time to time under the *Supreme Court Rules*, multiplied by the prescribed percentage.

**[1.517] Sections 271 (1) and 281 (1)**

*omit*

this Act

*substitute*

these rules

**[1.518] Part 18 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 18*

**Division 1.51.18 Amendments of pt 19**

**[1.519] Section 324 (1), definition of *garnishee order***

*omit*

this Act

*substitute*

these rules

**[1.520] Section 329 (1)**

*omit*

(1)

**[1.521] Section 329 (2)**

*omit*

(2)

**[1.522] Section 329 (2)**

*omit*

A person

*substitute*

A garnishee under a garnishee order made by the court

**[1.523] Section 329 (2)**

*omit*

under subsection (1)

*substitute*

given under the rules to the judgment creditor

**[1.524] Section 329 (2) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 in section 295*

**[1.525] Section 332 (3) (c)**

*omit*

this Act

*substitute*

these rules

**[1.526] Section 337 (1)**

*omit*

(1)

**[1.527] Section 337 (1) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 in section 296*

**[1.528] Section 337 (2)**

*omit*

(2)

**[1.529] Section 339 (1)**

*omit*

(not exceeding the prescribed amount)

*substitute*

(not more than \$19)

**[1.530] Section 340 (1)**

*omit*

(1) If a garnishee order

*substitute*

If a garnishee order made by the court

**[1.531] Section 340 (1) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 in section 297*

**[1.532] Section 340 (2)**

*omit*

(2)

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.18** Amendments of pt 19

Amendment [1.533]

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**[1.533] Section 340 (2)**

*omit*

subsection (1)

substitute

the *Magistrates Court Act 1930*, section 297

**[1.534] Section 341 (1)**

*omit*

made.

*substitute*

made by the court.

**[1.535] Section 341 (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 as section 298*

**[1.536] Section 347 (1) (b)**

*omit*

does not exceed the prescribed amount

*substitute*

is not more than \$1 000

**[1.537] Section 379**

*relocate to Magistrates Court Act 1930, part 5.1 as section 299*

**[1.538] Part 19 (as amended) (other than sections 329 (2), 337 (1), 340 (1) and 341)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 19*

## **Division 1.51.19 Amendments of pt 21**

### **[1.539] Sections 385 to 387A**

*omit*

### **[1.540] Section 388**

*omit*

section 387 (1) or section 387A

*substitute*

the *Magistrates Court Act 1930*, section 274 (Cases in which appeal may be brought) or section 275 (Appeals—Small Claims Court)

### **[1.541] Sections 391 and 392**

*omit*

### **[1.542] Part 21 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 21*

## **Division 1.51.20 Amendments of pt 22**

### **[1.543] Section 394, definition of *application***

*omit*

this Act

*substitute*

these rules

### **[1.544] Section 394, definition of *debt application***

*substitute*

***debt application*** means an application for the recovery of a debt.

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.20** Amendments of pt 22

Amendment [1.545]

---

**[1.545] Section 394, definition of *referee***

*substitute*

*referee* means a referee appointed under the *Magistrates Court Act 1930*, section 280 (Referees—appointment)

**[1.546] Section 394, definition of *summons***

*substitute*

*subpoena* means a subpoena issued under section 444 (1).

**[1.547] Section 394A**

*omit*

section 471 (Approved forms)

*substitute*

the *Court Procedures Act 2004*

**[1.548] Section 395 heading**

*omit*

**Act**

*substitute*

**rules**

**[1.549] Section 395 (1)**

*omit*

this Act

*substitute*

these rules

**[1.550] Section 395 (2)**

*omit*

sections 5 and 9 and

**[1.551] Division 22.2**

*omit*

**[1.552] Division 22.5**

*substitute*

**Division 22.5 Striking out application**

**418 Originating applications struck out after 1 year**

- (1) An application beginning a proceeding is taken to be struck out 1 year and 22 days after the day it is filed if—
  - (a) a response has not been filed; or
  - (b) judgment has not been entered or the application not otherwise disposed of.
- (2) An applicant whose application has been struck out under this section may file a new application within 1 year after the day it was struck out, even if the limitation period for the cause of action the subject of the application has ended.
- (3) This section applies to an application filed on or after the day this section commences.
- (4) Subsection (3) and this subsection expire 1 year after the day this section commences.

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.20** Amendments of pt 22

Amendment [1.553]

---

**[1.553] Section 427**

*omit*

**Explanatory note**

This section is replaced by new section 285 in the *Magistrates Court Act 1930*.

**[1.554] Section 428 (1) (a)**

*omit*

this Act

*substitute*

these rules

**[1.555] Section 435**

*omit*

**Explanatory note**

This section is replaced by an amendment of the *Magistrates Court Act 1930*, section 51 (which is relocated as section 310).

**[1.556] Section 438 (3) (a)**

*omit*

this Act

*substitute*

these rules

**[1.557] Sections 444 and 445**

*omit*

summons

*substitute*

subpoena



**[1.558] Section 446 heading**

*substitute*

**446 Retention of subpoenaed documents and things**

**[1.559] Sections 446 (1) and (3) and 447**

*omit*

summons

*substitute*

subpoena

**[1.560] Section 448 heading**

*substitute*

**448 Enforcement of subpoena**

**[1.561] Section 448 (1)**

*omit*

a summons

*substitute*

a subpoena of the Small Claims Court

**[1.562] Section 448 (1)**

*omit*

the summons

*substitute*

the subpoena

**[1.563] Section 448 (1) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 as section 300 (1)*

---

**Schedule 1** Consequential amendments  
**Part 1.51** Magistrates Court (Civil Jurisdiction) Act 1982  
**Division 1.51.20** Amendments of pt 22

Amendment [1.564]

---

**[1.564] Section 448 (2)**

*omit*

(2)

**[1.565] Section 448 (2)**

*omit*

subsection (1)

*substitute*

*the Magistrates Court Act 1930, section 300*

**[1.566] Section 448 (2) (a)**

*omit*

summons

*substitute*

subpoena

**[1.567] Section 449 heading**

*substitute*

**301 Witness before Small Claims Court to answer questions**

**[1.568] Section 449 (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 as section 301*

---

**[1.569] Sections 454 and 455**

*substitute*

**454 Interest up to judgment—Small Claims Court**

- (1) Section 230 (Interest up to judgment) applies in relation to a proceeding in the Small Claims Court as if it were a proceeding on a claim under part 3.
- (2) Section 231 (Judgment by default, confession or agreement—interest) applies to a default judgment in the Small Claims Court as if the judgment were a judgment by default under section 43.
- (3) Section 231 applies to a consent judgment in the Small Claims Court as if the judgment were a judgment by agreement under section 45.

**455 Interest on judgment debts**

- (1) Unless the Small Claims Court orders otherwise, interest is payable on the amount of a judgment debt that is unpaid.
- (2) Interest under subsection (1) forms part of the judgment debt, but interest is not payable on interest.
- (3) Interest under subsection (1) is worked out—
  - (a) from the day the judgment took effect, or from a later date (if any) decided by the Small Claims Court; and
  - (b) at the rate under section 234 (3) (Interest on judgments).

**[1.570] Section 456 (1)**

*omit*

this or any other Act

*substitute*

these rules or any other Territory law

**[1.571] Section 460 (1)**

*omit*

- (1) Subject to this Act

*substitute*

Subject to these rules

**[1.572] Section 460 (2)**

*omit*

- (2)

**[1.573] Section 460 (2)**

*omit*

of the court in proceedings referred to in subsection (1)

*substitute*

of the Small Claims Court in a proceeding on a trespass application  
(within the meaning of part 4.6)

**[1.574] Section 460 (2) (as amended)**

*relocate to Magistrates Court Act 1930, part 5.1 in section 302*

**[1.575] Part 22 (as amended) (other than sections 448 (1), 449 and 460 (2))**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 22*

**Division 1.51.21 Amendments of pt 23**

**[1.576] Sections 470 and 471**

*omit*

**[1.577] Sections 473 (4), 478 (3) (c), 481 (1), 482 (2), 484, 489, 490 (1) and (3), 491, 492 (1) and 493**

*omit*

this Act

*substitute*

these rules

**[1.578] Section 498**

*omit*

**[1.579] Part 23 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as part 23*

## **Part 1.52 Magistrates Court (Civil Jurisdiction) Regulations 1987**

**[1.580] Regulation 3**

*omit everything before paragraph (a), substitute*

(3) For subsection (2)—

**[1.581] Regulation 3**

*omit*

annum

*substitute*

year

Amendment [1.582]

---

**[1.582] Regulation 3 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as section 231 (3)*

**[1.583] Regulation 6 (1)**

*substitute*

- (1) A bailiff must keep, in the appropriate approved form or as directed by the registrar, records in relation to process required to be served or executed by the bailiff.

**[1.584] Regulation 6 (2)**

*omit*

subregulation

*substitute*

subsection

**[1.585] Regulations 6 to 12 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as sections 380B to 380H*

**[1.586] Schedule 1**

*omit*

(see reg 3)

substitute

(see s 231)

**[1.587] Schedule 1**

*omit*  
per annum  
*substitute*  
per year

**[1.588] Schedule 1 (as amended)**

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004  
as schedule 1*

**Part 1.53 Married Persons Property Act  
1986**

**[1.589] Section 13**

*omit*  
determine  
*substitute*  
decide

**[1.590] Section 14**

*substitute*

**14 Jurisdiction of Magistrates Court**

The jurisdiction of the Magistrates Court to hear and decide a question mentioned in section 13 is—

- (a) subject to the *Magistrates Court Act 1930*, section 264 (Proceedings affecting title to land); and
- (b) limited to a case where the question relates to property having a value that is not more than the amount mentioned in the

*Magistrates Court Act 1930*, section 257 (1) (Personal actions at law—amount or value).

**[1.591] Section 15 (1)**

*omit*

determined

*substitute*

decided

**Part 1.54 Medical Practitioners Act 1930**

**[1.592] Section 51 (5)**

*omit*

*Arrest on Mesne Process Act 1902*

*substitute*

*Court Procedures Act 2004*, sections 63 to 69

**[1.593] New section 51 (6)**

*insert*

- (6) Subsection (5) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).



## Part 1.55                      Mental Health (Treatment and Care) Act 1994

### [1.594]    Section 83 (3) (b)

*omit*

part 6

*substitute*

part 3.5 (Proceedings for indictable offences)

### [1.595]    Section 141 (3)

*omit everything before paragraph (a), substitute*

- (3) An appeal may be begun—

## Part 1.56                      Nurses Act 1988

### [1.596]    Section 74 (3)

*omit*

*Arrest on Mesne Process Act 1902, part 2*

*substitute*

*Court Procedures Act 2004, sections 63 to 69*

### [1.597]    New section 74 (4)

*insert*

- (4) Subsection (3) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

## Part 1.57 Oaths and Affirmations Act 1984

### [1.598] Section 5

*substitute*

#### 5 Certain provisions subject to court rules

The following provisions of this Act are subject to rules made, and forms approved, under the *Court Procedures Act 2004*:

- section 7 (Oath or affirmation by witness)
- section 8 (Oath or affirmation by interpreter of spoken language)
- section 9 (Oath or affirmation by interpreter of signs)
- section 10 (Oath or affirmation by deponent to affidavit)
- section 11 (Authority to administer oath etc)
- section 12 (Swearing or affirming of affidavit)
- section 13 (Affidavit by affirmation)
- part 5 (Manner of taking oaths and making affirmations).

## Part 1.58 Optometrists Act 1956

### [1.599] Section 52 (2)

*omit*

*Arrest on Mesne Process Act 1902, part 2*

*substitute*

*Court Procedures Act 2004, sections 63 to 69*

### [1.600] New section 52 (3)

*insert*

- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

## Part 1.59                      Physiotherapists Act 1977

### [1.601]    Section 45 (3)

*omit*

*Arrest on Mesne Process Act 1902*, part 2

*substitute*

*Court Procedures Act 2004*, sections 63 to 69

### [1.602]    New section 45 (4)

*insert*

- (4) Subsection (3) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

## Part 1.60                      Podiatrists Act 1994

### [1.603]    Section 43 (2)

*omit*

*Arrest on Mesne Process Act 1902*, part 2

*substitute*

*Court Procedures Act 2004*, sections 63 to 69

### [1.604]    New section 43 (3)

*insert*

- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

## Part 1.61 Protection Orders Act 2001

### [1.605] Section 95 (3) (b)

*substitute*

- (b) is a judgment debt enforceable in accordance with the rules under the *Court Procedures Act 2004* applying in relation to the civil jurisdiction of the Magistrates Court.

### [1.606] Section 96

*omit*

### [1.607] Dictionary, definition of *registrar*, paragraph (b)

*substitute*

- (b) see the *Magistrates Court Act 1930*, dictionary.

## Part 1.62 Protection Orders Regulations 2002

### [1.608] Regulations 19 and 23, notes

*substitute*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

### [1.609] Division 5.3 heading

*substitute*

## Division 5.3 Subpoenas

**[1.610] Regulation 28 heading**

*substitute*

**28 Issue of subpoena**

**[1.611] Regulation 28 (1)**

*omit*

summons

*substitute*

subpoena

**[1.612] Regulation 28 (1), note**

*substitute*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.613] Regulation 28 (2)**

*omit*

summons

*substitute*

subpoena

**[1.614] Regulation 29 heading**

*substitute*

**29 Copies of subpoenas**

Amendment [1.615]

---

**[1.615] Regulation 29 (1)**

*omit*

summons

*substitute*

subpoena

**[1.616] Regulation 29 (2)**

*omit*

summonses

*substitute*

subpoenas

**[1.617] Regulation 30 to 34**

*omit*

summons

*substitute*

subpoena

**[1.618] Regulation 35 (1), note**

*substitute*

*Note*    If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.619] Regulation 35 (2)**

*omit*

summons

*substitute*

subpoena

**[1.620] Regulations 41 (1), 43 (1), 44 (1), 68 (1), 69 (1), 73, 74 (3), 80 (1) and (2), 85 (1) and 86 (1), notes**

*substitute*

*Note* If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

**[1.621] Regulation 89 (4)**

*substitute*

Costs under subregulation (2) are recoverable as if they were costs awarded by the Magistrates Court in a civil proceeding.

**[1.622] Dictionary, definition of *summons for production***

*substitute*

*subpoena for production*, for division 5.3 (Subpoenas)—see regulation 28 (Issue of subpoena).

## **Part 1.63 Psychologists Act 1994**

**[1.623] Section 45 (2)**

*omit*

*Arrest on Mesne Process Act 1902*, part 2

*substitute*

*Court Procedures Act 2004*, sections 63 to 69

**[1.624] New section 45 (3)**

*insert*

- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

## Part 1.64 Remand Centres Act 1976

### [1.625] Section 15 (1) (b)

*substitute*

- (b) a person committed under 1 of the following provisions of the *Magistrates Court Act 1930*:
- section 84 (Particular cases may be adjourned)
  - section 90A (Plea of guilty in committal proceedings)
  - section 92A (Committal for sentence for indictable offence tried summarily)
  - section 94 (Discharge or committal for trial)
  - section 105 (Court may commit refractory witness)
  - section 154D (Committal to prison—fine defaulters)
  - section 312 (Failure to give evidence—committal);

## Part 1.65 Residential Tenancies Act 1997

### [1.626] Sections 124 to 126

*substitute*

#### 124 Referral of questions of law

- (1) If the tribunal considers that a question of law raises an issue of public importance, the tribunal may refer the question to the Supreme Court.
- (2) The tribunal may act under subsection (1) on its own initiative or on application by a party.

#### 125 Appeals from tribunal decisions

- (1) A party to a tribunal hearing may, with the Supreme Court's leave, appeal to the court on a question of law from a decision of the tribunal in the hearing.



- (2) An appeal by a person under subsection (1) must be begun within—
  - (a) 28 days after the day notice of the tribunal’s order is given to the person under section 105; or
  - (b) if the person has asked for a statement of reasons under section 106—28 days after the day the statement of reasons is given to the person; or
  - (c) any further time the Supreme Court allows (whether on, before or after a day mentioned in paragraph (a) or (b)).
- (3) The Supreme Court must decide the appeal, and may make any of the following orders:
  - (a) an order confirming or setting aside the decision of the tribunal;
  - (b) an order remitting the case to be heard and decided again, either with or without the hearing of further evidence, by the tribunal in accordance with the court’s directions;
  - (c) an order for costs.
- (4) The Supreme Court may also make any other order the court considers appropriate.
- (5) This section applies in relation to a decision of the tribunal made on or after the day this section commences.
- (6) Subsection (5) and this subsection expire 1 year after the day this section commences.

**[1.627] Section 131**

*substitute*

**131 Proceedings by children**

- (1) A proceeding under this Act may be begun by a child as if he or she were an adult.

- (2) The rules in force under the *Court Procedures Act 2004* that apply in relation to the approval of settlements and compromises, and amounts ordered or agreed to be paid, in a civil proceeding brought in the Magistrates Court by a child apply in relation to a proceeding brought under this Act by a child.
- (3) The rules mentioned in subsection (2) apply as if all necessary changes, and any changes prescribed under the regulations, were made.

## **Part 1.66 Road Transport (Driver Licensing) Act 1999**

### **[1.628] Section 37 (1) (d)**

*substitute*

- (d) to a court officer for the recovery of a fine (including proceedings under the *Magistrates Court Act 1930*, division 3.9.2 (Enforcement of fines)); or

## **Part 1.67 Road Transport (General) Act 1999**

### **[1.629] Section 50 (2)**

*substitute*

- (2) The person may apply to the Magistrates Court for an order setting aside the road transport authority's decision.

**[1.630] Section 75 (1)**

*after*

summons,

*insert*

subpoena

**Part 1.68 Set-off of Debts Act 1728**

**[1.631] Section 13**

*relocate to Court Procedures Act 2004, division 7.5 as section 84*

**Part 1.69 Set-off of Debts Act 1735**

**[1.632] Section 5**

*omit*

section 13, and hereby made perpetual,

*substitute*

section 84

**[1.633] Section 5 (as amended)**

*relocate to Court Procedures Act 2004, division 7.5 as section 85*

**Part 1.70 Supreme Court Act 1933**

**[1.634] Section 8 (2)**

*omit*

of court

**[1.635]    Sections 9 (1) and (2)**

*omit*

by rules of court

*substitute*

under the rules

**[1.636]    Section 9 (2)**

*omit*

by the rules of court

*substitute*

under the rules

**[1.637]    Section 10 (1) and (2)**

*omit*

by rules of court

*substitute*

under the rules

**[1.638]    Section 10 (2)**

*omit*

by the rules of court

*substitute*

under the rules

**[1.639]    Section 13 (4) (a)**

*omit*

of court

**[1.640] Section 18 (2)**

*omit*

by rules of court

*substitute*

under the rules

**[1.641] Section 23 (2)**

*omit*

rules of court

*substitute*

the rules

**[1.642] Section 24**

*omit*

**[1.643] Sections 30 (5)**

*omit*

**[1.644] Section 30**

*renumber subsections when Act next republished under the  
Legislation Act*

**[1.645] Sections 37 to 37D**

*omit*

**[1.646] Sections 47 (2), note and 51 (1), note**

*omit*

of court

Amendment [1.647]

---

**[1.647] Section 54**

*substitute*

**54 How evidence is to be given**

- (1) Evidence in any suit must be given orally in open court.
- (2) Subsection (1) is subject to—
  - (a) any agreement of the parties to the contrary; and
  - (b) any other Territory law.

**[1.648] Section 58 (3)**

*omit*

by rules of court

*substitute*

under the rules

**[1.649] Section 58A (2), definition of *depositions*, paragraph (a)**

*omit*

section 255B (2)

*substitute*

section 300 (2)

**[1.650] Section 65 (b)**

*substitute*

- (b) under the seal of the court or any other seal prescribed under these rules; and

**[1.651] Section 65 (as amended)**

*relocate to Supreme Court Rules, as order 1 rule 5*

**[1.652] Section 67**

*omit*

**[1.653] Section 69**

*relocate to Supreme Court Rules as order 42A rule 1*

**[1.654] Section 70**

*omit*

**[1.655] Section 75**

*omit*

**[1.656] Dictionary, new definition of *rules***

*insert*

*rules* means—

- (a) rules under the *Court Procedures Act 2004* applying in relation to the court; or
- (b) rules under this Act, section 36.

## **Part 1.71 Supreme Court Rules**

**[1.657] Order 1 rule 4, definition of *Act*, paragraph (a)**

*omit*

**[1.658] Order 1 rule 4, definition of *Act*, note**

*substitute*

*Note* See also r 5.

**[1.659] Order 1 rule 4, definition of *Act***

*renumber paragraphs when Act next republished under Legislation Act*

**[1.660] Order 1 new rules 5 to 7**

*insert*

**5 Certain references to Act or *the Act***

A reference to *Act* or *the Act*, without mentioning a particular Act, is a reference to the *Supreme Court Act 1933*.

**6 Terms defined in Supreme Court Act**

A term defined in the *Supreme Court Act 1933* has the same meaning in these rules.

**7 References to forms by number**

A reference to a form by number is a reference to the form so numbered that—

- (a) is approved under the *Court Procedures Act 2004*; and
- (b) either—
  - (i) was in force under the *Supreme Court Act 1933* immediately before the commencement of the *Court Procedures Act 2004*; or
  - (ii) is expressed to be made for these rules or the court.

**[1.661] Order 2 rule 11 (2) (a)**

*substitute*

- (a) an order under order 42A rule 1 (Interest up to judgment); or



**[1.662] Order 26 rule 4**

*omit*

the Act, section 69

*substitute*

order 42A rule 1 (Interest up to judgment)

**[1.663] Order 39 rule 8**

*omit*

*Magistrates Court (Civil Jurisdiction) Act 1982*, section 202.

*substitute*

rules under the *Court Procedures Act 2004* applying to an order for the examination of witnesses in a civil proceeding in the Magistrates Court.

**[1.664] Order 42A heading**

*substitute*

## **Order 42A Interest up to and on judgments**

**[1.665] Order 42A rule 1**

*omit everything before the table, substitute*

### **2 Interest on judgments**

A judgment debt under a judgment of the court carries interest at the rate applying under the following table from the day judgment is entered:

#### **Explanatory note**

The *Supreme Court Act 1933*, section 69 (Interest up to judgment) is relocated as Order 42A rule 1 by another amendment in this schedule.

**[1.666]    Order 47 rule 1**

*omit*

*Judgment Creditors Remedies Act 1901*

*substitute*

*Court Procedures Act 2004*, division 7.6 (Judgment creditor remedies)

**[1.667]    Order 52 rule 23 (2) (a)**

*substitute*

- (a) at the rate fixed from time to time under order 42A rule 2 (Interest on judgments); or

**[1.668]    Order 61A rule 1 (e)**

*omit*

the Act, section 69

*substitute*

order 42A rule 1 (Interest up to judgment)

**[1.669]    Order 61A rule 1 (h)**

*substitute*

- (h) in trials and hearings of matters that, if begun in the Magistrates Court, would have been within the jurisdiction of the Magistrates Court under the *Magistrates Court Act 1930*; chapter 4 (Civil proceedings); and

**[1.670] Order 61A rule 1 (t) and (u)**

*substitute*

- (t) in the hearing and deciding of applications under the following provisions of the *Magistrates Court Act 1930* regarding the transfer of proceedings:
- section 268 (Transfer of action from Supreme Court)
  - section 270 (Removal of proceedings into Supreme Court)
  - section 271 (Stay of proceedings); and
- (u) in the hearing and deciding of interlocutory applications under the *Magistrates Court Act 1930*, part 4.5 (Civil appeals) in relation to appeals; and

**[1.671] Order 65 rule 7A (7), definitions of *Magistrates Court determined fee* and *Supreme Court determined fee***

*substitute*

*Magistrates Court determined fee* means the relevant determined fee under the *Court Procedures Act 2004*, part 3 (Court and tribunal fees).

*Supreme Court determined fee* means the relevant determined fee under the *Court Procedures Act 2004*, part 3 (Court and tribunal fees).

**[1.672] Order 66 rule 2 heading**

*substitute*

**2 General heading style—civil proceedings forms**

**[1.673] Order 66 rule 2 (1)**

*omit*

form in schedule 1, part 1.1 (Civil proceedings forms)

*substitute*

form approved under the *Court Procedures Act 2004* for use in Supreme Court civil proceedings

**[1.674] Order 66 rule 11 (1), note**

*substitute*

*Note* A fee may be determined under the *Court Procedures Act 2004* for this provision.

**[1.675] Order 69A**

*substitute*

## **Order 69A Applications to transfer proceedings—Magistrates Court Act, pt 4.4**

### **1 Applications by motion**

- (1) An application under the *Magistrates Court Act 1930*, section 268 (Transfer of action from Supreme Court) must be made by motion on notice under order 54 (Motions).
- (2) An application under the *Magistrates Court Act 1930*, section 270 (Removal of proceedings into Supreme Court) or section 271 (Stay of proceedings) must be made by motion on notice under order 54 supported by affidavit.

**[1.676] Order 72 rule 1A**

*omit*

schedule 1, part 1.2

*substitute*

a form approved under the *Court Procedures Act 2004* for use in a proceeding under the Act

**[1.677] Order 76 rule 1A**

*omit*

schedule 1, part 1.3

*substitute*

a form approved under the *Court Procedures Act 2004* for use in a proceeding under the Act

**[1.678] Order 80 rule 16 (1) note**

*substitute*

*Note* A fee may be determined under the *Court Procedures Act 2004* for this provision.

**[1.679] Order 83 rule 2**

*omit*

schedule 1, part 1.5

*substitute*

a form approved under the *Court Procedures Act 2004* for use in a proceeding under the Act

**[1.680] Order 84 rule 2, note, table, item 3**

*omit*

***Discrimination Act 1991***, section 108D

*substitute*

***Discrimination Act 1991***, section 108DB

**[1.681] Order 84 rule 2, note, table, item 5**

*omit*

***Magistrates Court Act 1930***, divisions 11.1 and 11.2

***Magistrates Court (Civil Jurisdiction) Act 1982***, part 21

*substitute*

***Magistrates Court Act 1930***, division 3.10.1, division 3.10.2 and part 4.5

**[1.682] Order 84 rule 2, note, table, item 8**

*omit*

***Residential Tenancies Act 1997***, section 126

*substitute*

***Residential Tenancies Act 1997***, section 125

**[1.683] Order 84 rule 2, note, table, item 9**

*omit*

***Magistrates Court (Civil Jurisdiction) Act 1982***, part 21

*substitute*

***Magistrates Court Act 1930***, part 4.5

**[1.684] Order 85 rule 3 (b)**

*omit*

*Magistrates Court Act 1930*

*substitute*

Magistrates Court

**[1.685] Schedule 1**

*omit*

## **Part 1.72 Utilities Act 2000**

**[1.686] Section 210 (2)**

*substitute*

- (2) The notice about a direction to pay an amount under section 209 must include a statement about the right to enforce the direction in accordance with the rules in force under the *Court Procedures Act 2004* applying in relation to the Small Claims Court.

**[1.687] Section 229 (2)**

*after*

this Act

*insert*

(other than part 11)

## Part 1.73                      Victims of Crime (Financial Assistance) Act 1983

**[1.688]    Section 2, definition of *file***

*omit*

**[1.689]    Sections 7 (1) (b) and 26**

*omit*

determined

*substitute*

decided

**[1.690]    Section 27 (2)**

*omit*

shall be filed with the office of the registrar within the period of

*substitute*

must be filed in the Magistrates Court within

**[1.691]    Section 27 (4) (b)**

*omit*

the determination of

*substitute*

deciding



**[1.692] Section 28**

*substitute*

**28 Proceedings on applications**

- (1) The *Magistrates Court (Civil Jurisdiction) Rules 2004* apply in relation to a proceeding in the Magistrates Court on an application for financial assistance as if—
  - (a) the proceeding were begun in the court by filing an application mentioned in those rules, section 22; and
  - (b) all other necessary changes, and any changes prescribed under the regulations, were made.
- (2) The Territory has a right of appearance in a proceeding on an application.
- (3) If the Territory enters an appearance, it is a party to the proceeding.
- (4) Subsection (1) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3) or, if an earlier day is fixed under the rules under that Act, that day.

**[1.693] Section 29**

*omit*

determined

*substitute*

decided

Amendment [1.694]

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**[1.694] Sections 31 (1) and 32**

*omit*

determining

*substitute*

deciding

**[1.695] Section 43 (1) (b)**

*omit*

the determination of

*substitute*

the court to decide

**[1.696] Section 43 (3)**

*omit*

the determination of

*substitute*

deciding

**[1.697] Section 44 (1)**

*omit*

determines

*substitute*

decides

**[1.698] Section 54 (2)**

*omit*

office of the registrar

*substitute*

Magistrates Court

**[1.699] Section 54 (3)**

*substitute*

- (3) The registrar must serve notice of a provisional order on the convicted person in accordance with the rules under the *Court Procedures Act 2004* applying in relation to the civil jurisdiction of the Magistrates Court.

**[1.700] Sections 54 (4) (d) and 55 (1)**

*omit*

office of the registrar

*substitute*

Magistrates Court

**[1.701] Section 57 (1)**

*omit*

determine

*substitute*

decide

Amendment [1.702]

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**[1.702] Section 59 (1) (b)**

*omit*

determination

*substitute*

decision

## **Part 1.74 Workers Compensation Act 1951**

**[1.703] Section 197 (2)**

*substitute*

- (2) The *Magistrates Court Act 1930*, part 4.5 (Civil appeals) applies in relation to an appeal under subsection (1) as if—
- (a) it were an appeal from a judgment or order of a kind mentioned in that Act, section 274 (2) (Cases in which appeals may be brought); and
  - (b) for an appeal from a decision, order or award of a committee—the decision, order or award were a decision, order or award of the Magistrates Court; and
  - (c) any necessary changes, and any changes prescribed under the regulations, were made.

## **Part 1.75 Workers Compensation Regulations 2002**

**[1.704] Regulation 57 (3)**

*substitute*

- (3) The costs of, and incidental to, an arbitration or related proceeding are payable at  $\frac{2}{3}$  of the scale of costs prescribed by the rules

applying to a civil proceeding in the Supreme Court, unless the Magistrates Court or committee otherwise orders.

**[1.705] Regulation 58 (3) (a)**

*substitute*

- (a) are payable at 2/3 of the scale of costs prescribed by the rules applying to a civil proceeding in the Supreme Court, unless the Magistrates Court or committee otherwise orders; and

## **Part 1.76 Workers Compensation Rules 2002**

**[1.706] Rule 33 (1)**

*substitute*

- (1) The rules in force under the *Court Procedures Act 2004* applying in relation to a person with a disability (however described) in a civil proceeding in the court under the *Magistrates Court Act 1930* apply to an arbitration, with any necessary changes, as if they formed part of these rules.

**[1.707] Rule 43 (1)**

*substitute*

- (2) If, in relation to a claim, a procedure is not provided for under these rules, the court may apply the rules in force under the *Court Procedures Act 2004* applying in relation to a civil proceeding in the court under the *Magistrates Court Act 1930*, to the extent that they provide for the procedure, as if they formed part of these rules.

Amendment [1.708]

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**[1.708] Rule 64**

*substitute*

**64 Enforcement of awards and agreements**

The rules in force under the *Court Procedures Act 2004* applying in relation to a civil proceeding under the *Magistrates Court Act 1930* apply, with any necessary changes, to a proceeding for enforcement of, or the recovery of money payable under, an award of the court or a registered agreement as if it were a judgment of the court.

**[1.709] Rule 69**

*substitute*

**69 Taxation of costs**

Subject to any direction of the court, if the cost of an arbitration or related proceeding are to be taxed, the rules in force under the *Court Procedures Act 2004* applying in relation to the Supreme Court apply to the taxation with any necessary changes.

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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 May 2004.

**2 Notification**

Notified under the Legislation Act on 2 September 2004.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Court Procedures (Consequential Amendments) Bill 2004, which was passed by the Legislative Assembly on 17 August 2004.

Acting Clerk of the Legislative Assembly

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