

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Supreme Court (Amendment) Bill 1998

A BILL

FOR

An Act to amend the *Supreme Court Act 1933*

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

1. Short title

This Act may be cited as the *Supreme Court (Amendment) Act 1998*.

5 **2. Commencement**

This Act commences on the day on which it is notified in the *Gazette*.

3. Principal Act

In this Act, "Principal Act" means the *Supreme Court Act 1933*.¹

4. Insertion

10 After section 53 of the Principal Act the following section is inserted in Part IV:

“53A. Entry, search and seizure—Sheriff’s powers

“(1) This section applies where, in executing a judgment against a judgment debtor—

- 5 (a) the Sheriff is refused entry into the judgment debtor’s premises by an occupier of the premises, after having informed, or having made reasonable attempts to inform, the occupier (orally or in writing) about the procedure in relation to the execution of the judgment and the Sheriff’s intention to seek an order for entry under this section if entry is refused; or
- 10 (b) the Sheriff—
- (i) has made reasonable attempts to contact both the judgment debtor and any other occupier of the judgment debtor’s premises to obtain consent to entry of the premises; and
- 15 (ii) has been unable to make such contact with the judgment debtor or any other occupier of those premises.

“(2) Where this section applies, on application by the Sheriff the Court may issue an order authorising the Sheriff, for any purpose connected with executing the judgment, to enter the judgment debtor’s premises using such force as is necessary and reasonable, with the assistance of a police officer or officers if the Sheriff considers such assistance to be necessary

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“(3) Without limiting the generality of subsection (2), an order under that subsection is sufficient authority for the Sheriff—

- (a) to search the judgment debtor’s premises for any thing that the Sheriff is entitled to seize in execution of the judgment; and
- 25 (b) to seize and remove any such thing.

“(4) The Court shall not make an order under subsection (2) authorising entry to a judgment debtor’s premises unless satisfied that—

- (a) the judgment debtor resides at the premises;
- 30 (b) there is within the premises any thing that the Sheriff is entitled to seize in execution of the judgment; or
- (c) the Sheriff is entitled to cause the premises to be sold in execution of the judgment.

“(5) No action, suit or proceeding lies against the Sheriff in relation to an act done or omitted to be done in good faith in carrying out an order of the Court under subsection (2).

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“(6) Nothing in this section is to be taken to limit the generality of any other power of the Sheriff or the Court in relation to the execution of a judgment.

“(7) In this section—

‘judgment debtor’s premises’ means premises occupied by the judgment debtor.”.

NOTE

Principal Act

1. Reprinted as at 30 November 1996 See also Acts Nos. 41, 58, 83 and 96, 1997.