

2023

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Courts Legislation Amendment Bill 2023

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# Courts Legislation Amendment Bill 2023

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## A Bill for

An Act to amend legislation about courts, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Courts Legislation Amendment Act 2023*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Legislation amended**

9 This Act amends the following legislation:

- 10 • [Court Procedures Act 2004](#)  
11 • [Magistrates Court Act 1930](#)  
12 • [Supreme Court Act 1933](#).

13 *Note* This Act also amends other legislation (see sch 1).

14 **4 Legislation repealed**

15 All statutory instruments made under the [Supreme Court Act 1933](#),  
16 part 3 are repealed, including the following instruments:

- 17 • [Supreme Court \(Master Appointment Requirements\)](#)  
18 [Determination 2010](#) (NI2010-13)  
19 • [Supreme Court \(Master\) Conditions of Appointment 2017 \(No 1\)](#)  
20 (NI2017-242).

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## Part 2 Court Procedures Act 2004

### 5 Sections 7 (2) and 8 (3)

*omit*

section 9 (2) (d) or (e)

*substitute*

section 9 (2) (c) or (d)

### 6 Rule-making committee Section 9 (2)

*substitute*

(2) The rule-making committee consists of the following members:

(a) the Chief Justice;

(b) 2 other resident judges appointed by the Chief Justice;

(c) the Chief Magistrate;

(d) another magistrate appointed by the Chief Magistrate.

*Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

### 7 Advisory committee Section 11 (2) (a) and (b)

*substitute*

(a) a resident judge appointed by the Chief Justice as the chairperson of the advisory committee;

(b) another resident judge appointed by the Chief Justice;

### 8 Section 11 (2), new note

*insert*

*Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

**9 Section 11 (6) to (8)**

*substitute*

(6) If the chairperson of the advisory committee is not present at a meeting of the committee—

(a) if the resident judge mentioned in subsection (2) (b) is present—  
that resident judge is to chair the meeting; or

(b) in any other case—the member present chosen by the committee  
is to chair the meeting.

**10 Reviewable decisions—court  
Section 18A (5) (a) (i)**

*omit*

or the associate judge

**11 Definitions—pt 5  
Section 40, definition of *judge***

*substitute*

*judge* includes a person prescribed by regulation for this definition.

**12 Jurisdiction  
Schedule 1, item 1 (3)**

*omit*

the associate judge,

**13 Costs  
Schedule 1, new item 26 (ca)**

*insert*

(ca) costs against non-parties to proceedings;



1 **14 Dictionary, note 2**

2 *omit*

- 3 • associate judge

4 *substitute*

- 5 • judge  
6 • magistrate

1 **Part 3** **Magistrates Court Act 1930**

2 **15** **Sections 17A and 17C**

3 *substitute*

4 **17A** **Protection and immunity of magistrates**

5 (1) A magistrate, when exercising the functions of a magistrate, has the  
6 same protection and immunity as a judge when exercising the  
7 functions of a judge.

8 (2) Without limiting subsection (1), a magistrate, when exercising an  
9 administrative function of the magistrate under a law in force in the  
10 Territory, has the same protection and immunity as a magistrate in a  
11 judicial proceeding.

12 *Note* If a function of a magistrate is exercisable by a registrar, *magistrate*  
13 includes a registrar exercising the function (see dict).

14 **16** **Sections 17E to 17K**

15 *omit*

1 **Part 4** **Supreme Court Act 1933**

2 **17** **Acting judges**  
3 **Section 4B (2)**

4 *omit*

5 12 months

6 *substitute*

7 2 years

8 **18** **Seniority of judges**  
9 **Section 5 (4)**

10 *omit*

11 **19** **Exercise of jurisdiction**  
12 **Section 8 (1) (a)**

13 *omit*

14 **20** **Exercise of jurisdiction by associate judge**  
15 **Section 9**

16 *omit*

17 **21** **Section 14**

18 *substitute*

19 **14** **Full Court decisions—equal division of opinion**

20 If the Full Court is divided in opinion as to the decision to be given  
21 on any question, the question is to be decided according to—

22 (a) if there is a majority—the opinion of the majority; or

23 (b) if the judges are equally divided in opinion—the opinion of the  
24 most senior judge sitting.

Section 22

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1 **22 Appellate jurisdiction**  
2 **Section 37E (4)**

3 *omit*

4 , or the associate judge,

5 **23 The master**  
6 **Part 3**

7 *omit*

8 **24 Power to complete part-heard proceedings**  
9 **Section 60A**

10 *omit*

11 or associate judge

12 **25 New part 13**

13 *insert*

14 **Part 13 Transitional—Courts Legislation**  
15 **Amendment Act 2023**

16 **119 Meaning of *associate judge*—pt 13**

17 In this part:

18 *associate judge* means the Master of the court under this Act, as in  
19 force at any time before the day the *Courts Legislation Amendment*  
20 *Act 2023*, section 23 commences.

21 *Note* The *Courts Legislation Amendment Act 2023*, s 23 omitted this Act, pt 3,  
22 which provided for the Master of the court (known as the Associate  
23 Judge).

1 **120** **Equally divided opinion relating to order of associate**  
2 **judge**  
3 Despite section 14 (b), if an order of the associate judge is called into  
4 question and the Full Court is equally divided in opinion as to the  
5 decision to be given, the order is confirmed.

6 **121** **Appeals against interlocutory orders of associate judge**  
7 For section 37E (2), an appeal may be brought against an  
8 interlocutory order of the court that was constituted solely by the  
9 associate judge only with leave of the Court of Appeal.

10 **122** **Power to complete part-heard proceedings of associate**  
11 **judge**  
12 For section 60A, a *judge* includes the associate judge.

13 **123** **Expiry—pt 13**  
14 This part expires 4 years after the day it commences.  
15 *Note* A transitional provision is repealed on its expiry but continues to have  
16 effect after its repeal (see [Legislation Act](#), s 88).

17 **26** **Schedule 1, part 1.1 heading**

18 *substitute*

19 **Part 1.1** **Chief justice and judges**

20 **27** **Schedule 1, part 1.1**

21 *omit*

22 [\*Chief Justice/\*judge/\*master]

23 *substitute*

24 [\*Chief Justice/\*judge]

1 **28** **Schedule 1, part 1.2 heading**

2 *substitute*

3 **Part 1.2** **Chief justice and judges**

4 **29** **Schedule 1, part 1.2**

5 *omit*

6 [\*Chief Justice/\*judge/\*master]

7 *substitute*

8 [\*Chief Justice/\*judge]

9 **30** **Dictionary, definitions of *associate judge* and *master***

10 *omit*

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Commissioner for Sustainability**  
4 **and the Environment Act 1993**

5 **[1.1] Section 12 (2) (a)**

6 *omit*

7 of the Supreme Court

8 **[1.2] New section 12 (3)**

9 *insert*

10 (3) In this section:

11 *associate judge* means the Master of the Supreme Court under the  
12 *Supreme Court Act 1933*, as in force at any time before the day the  
13 *Courts Legislation Amendment Act 2023*, section 23 commences.

14 *Note* The *Courts Legislation Amendment Act 2023*, s 23 omitted the *Supreme*  
15 *Court Act 1933*, pt 3, which provided for the Master of the Supreme Court  
16 (known as the Associate Judge).

17 **[1.3] Dictionary, note 2**

18 *insert*

- 19 • coroner  
20 • judge  
21 • magistrate  
22 • ombudsman

1 **Part 1.2** **Confiscation of Criminal Assets**  
2 **Act 2003**

3 **[1.4] Section 195, definition of *issuing officer*, paragraph (a)**

4 *omit*

5 the associate judge,

6 **Part 1.3** **Crimes Act 1900**

7 **[1.5] Section 185, definition of *issuing officer*, paragraph (a)**

8 *omit*

9 the associate judge,

10 **Part 1.4** **Crimes (Surveillance Devices)**  
11 **Act 2010**

12 **[1.6] Section 10 (1), note**

13 *omit*

14 **[1.7] Dictionary, definition of *judge***

15 *omit*



1 **Part 1.5 Criminal Code 2002**

2 **[1.8] Section 300, definition of *territory public official*,**  
3 **paragraph (e)**

4 *omit*

5 **[1.9] New section 359 (4) and (5)**

6 *insert*

7 (4) For subsection (2), a ***public official*** includes the associate judge.

8 (5) In this section:

9 ***associate judge*** means the Master of the Supreme Court under the  
10 ***Supreme Court Act 1933***, as in force at any time before the day the  
11 ***Courts Legislation Amendment Act 2023***, section 23 commences.

12 *Note* The ***Courts Legislation Amendment Act 2023***, s 23 omitted the ***Supreme***  
13 ***Court Act 1933***, pt 3, which provided for the Master of the Supreme Court  
14 (known as the Associate Judge).

15 **Part 1.6 Drugs of Dependence Act 1989**

16 **[1.10] Section 187 (1), definition of *issuing officer*, paragraph (a)**

17 *omit*

18 the associate judge,

## 1 Part 1.7 Integrity Commission Act 2018

### 2 [1.11] New section 13 (2)

3 *insert*

4 (2) In this section:

5 *associate judge* means the Master of the Supreme Court under the  
6 *Supreme Court Act 1933*, as in force at any time before the day the  
7 *Courts Legislation Amendment Act 2023*, section 23 commences.

8 *Note* The *Courts Legislation Amendment Act 2023*, s 23 omitted the *Supreme*  
9 *Court Act 1933*, pt 3, which provided for the Master of the Supreme Court  
10 (known as the Associate Judge).

### 11 [1.12] Section 102 (2), new definition of *associate judge*

12 *insert*

13 *associate judge*—see section 13 (2).

## 14 Part 1.8 Judicial Commissions Act 1994

### 15 [1.13] Dictionary, definition of *head of jurisdiction*, 16 paragraph (a)

17 *omit*

18 or the associate judge

### 19 [1.14] Dictionary, definition of *judicial officer*, paragraph (b)

20 *omit*

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## 1 **Part 1.9** **Juries Regulation 2018**

### 2 **[1.15] Schedule 1, table 1.3, item 10**

3 *substitute*

10	a judge	2 years after the appointment as judge ends
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## 4 **Part 1.10** **Legislation Act 2001**

### 5 **[1.16] Dictionary, part 1, definition of *associate judge***

6 *omit*

## 7 **Part 1.11** **Ombudsman Act 1989**

### 8 **[1.17] Section 5 (2) (b) (i)**

9 *omit*

10 of the Supreme Court

### 11 **[1.18] Section 5 (8), new definition of *associate judge***

12 *insert*

13 *associate judge* means the Master of the Supreme Court under the  
14 [Supreme Court Act 1933](#), as in force at any time before the day the  
15 [Courts Legislation Amendment Act 2023](#), section 23 commences.

16 *Note* The [Courts Legislation Amendment Act 2023](#), s 23 omitted the [Supreme](#)  
17 [Court Act 1933](#), pt 3, which provided for the Master of the Supreme Court  
18 (known as the Associate Judge).

1 **[1.19] Dictionary, note 2**

2 *insert*

- 3 • coroner  
4 • judge  
5 • magistrate

6 **Part 1.12 Public Sector Management**  
7 **Act 1994**

8 **[1.20] Section 150 (1), definition of *public sector member*,**  
9 **paragraph (b) (i)**

10 *substitute*

- 11 (i) the Chief Justice or a judge;

12 **[1.21] Section 150 (1), definition of *public sector member*,**  
13 **paragraph (b), note 1**

14 *omit*

15 *associate judge,*

16 **Part 1.13 Remuneration Tribunal Act 1995**

17 **[1.22] Schedule 1, part 1.1**

18 *omit*

- 19 • associate judge of the Supreme Court

1 **Part 1.14** **Road Transport (Driver**  
2 **Licensing) Regulation 2000**

3 **[1.23] Section 12 (10), definition of *judicial officer***

4 *omit*

5 the associate judge,

6 **[1.24] Dictionary, note 2**

7 *omit*

- 8
  - associate judge

9 **Part 1.15** **Victims of Crime Act 1994**

10 **[1.25] Section 8 (1), definition of *justice agency*,**  
11 **paragraph (b) (i)**

12 *substitute*

- 13 (i) the Chief Justice or a judge;

14 **[1.26] Dictionary, note 2**

15 *omit*

- 16
  - associate judge

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 27 June 2023.

**2 Notification**

Notified under the [Legislation Act](#) on 2023.

**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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