

1992

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

*MAGISTRATES COURT (CIVIL JURISDICTION) ACT 1982*

**MAGISTRATES COURT (CIVIL JURISDICTION) REGULATIONS  
(AMENDMENT)**

EXPLANATORY MEMORANDUM

Circulated by authority of

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## MAGISTRATES COURT (CIVIL JURISDICTION) REGULATIONS (AMENDMENT)

The Magistrates Court (Civil Jurisdiction) Regulations (Amendment) (the Regulations) amend the Magistrates Court (Civil Jurisdiction) Regulations (the Principal Regulations) to provide for a simplified table of prescribed interests rates.

Section 308 of the *Magistrates Court (Civil Jurisdiction) Act 1982* (the Principal Act) provides that the Executive may make rules or regulations, not inconsistent with the Act, prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 227B of the Principal Act provides that pre-judgement interest, calculated as prescribed by Regulation may be included in the amount for which judgement is entered by default, confession or agreement.

The Principal Regulations prescribe the rate of interest for the purposes of section 227B of the Principal Act for the period between the date on which a cause of action arises and the date when judgement is entered in cases where interest has been claimed and judgement is entered by default, confession or agreement.

The Table of prescribed interest rates is derived from figures published in the Reserve Bank Bulletin: F3 Interest Rates and Yields - Overdrafts less than \$100,000. This rate provides a relevant and objective base from which to derive an appropriate interest rate. The interest rate is based on the mean interest rate for a particular month or months.

Currently, the 18 separate items in the Table provide 18 different prescribed rates of interest effective over 18 different periods of time. Also, the prescribed interest rates extend 2 or 3 places after the decimal point. This combination makes the calculation of interest time consuming and costly.

**Regulation 1** provides that the Regulations are to commence on 15 July 1992.

**Regulation 2** repeals Regulation 3 of the Principal Regulations and substitutes Regulation 3 to prescribe interest rates for the purposes of subsection 227B (2) of the *Magistrates Court (Civil Jurisdiction) Act 1982* and the Schedule which provides Tables 1 and 2. The existing Table is repealed and replaced by Table 1 and Table 2.

New Table 1 reproduces the repealed Table and provides for the items and periods up until the commencement of the Regulations. Table 1 sets out the percentage rate of interest per annum to be applied in proceedings commenced before 15 July 1992.

The amount of interest entered in judgements on proceedings commenced before the commencement of the Regulations would be calculated according to Table 1, in which the the Items of the repealed Table are retained, although, as is provided by new paragraph 3(a)(ii), where proceedings are

commenced before 15 July 1992 but the period is not itemised in Table 1, the relevant period in Table 2 will be used to give the relevant interest rate. It is intended that no further Items are to be added to Table 1, in future, Table 2 will provide for the rate of interest for the purposes of subsection 277B(2) of the Act.

New Table 2 sets out the percentage rate of interest per annum to be applied in proceedings commenced on or after 15 July 1992. Table 2 averages the items in the repealed Table and provides for a reduced number of items and time periods to be used from the date of the commencement of the Regulations.

Table 2 will be applied to all calculations in respect of proceedings commenced after the commencement of the Regulations.

### **Revenue/cost implications**

The Regulations will have no effect on revenue.