



Australian Capital Territory

Magistrates Court (Civil Jurisdiction) Rules 2004

Subordinate Law SL2004-58

made under the

Court Procedures Act 2004

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Part 1 Preliminary

1 Name of rules

These rules are the *Magistrates Court (Civil Jurisdiction) Rules 2004*.

2 Dictionary

The dictionary at the end of these rules is part of these rules.

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

For example, the signpost definition ‘*account*, for part 19 (Enforcement of judgments)—see section 287’. means that the term ‘account’ is defined in that section and applies to that part.

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

3 Notes

A note included in these rules is explanatory and is not part of these rules.

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

4 Application of rules

These rules do not apply in relation to—

- (a) proceedings under the *Protection Orders Act 2001*; and
- (b) proceedings under the *Workers Compensation Act 1951*; and
- (c) proceedings on an information for an offence.

5 Meaning of *plaintiff* and *defendant*

- (1) In these rules—
 - (a) a reference to the *plaintiff* in a proceeding is, for a proceeding in which there are 2 or more plaintiffs, a reference to any or all of the plaintiffs; and
 - (b) a reference to the *defendant* in a proceeding is, for a proceeding in which there are 2 or more defendants, a reference to any or all of the defendants.
- (2) In these rules—
 - (a) a reference to the *plaintiff* in a proceeding is, in relation to a proceeding begun by filing an application mentioned in section 22, a reference to the applicant in the proceeding; and
 - (b) a reference to the *defendant* in a proceeding is, in relation to a proceeding mentioned in paragraph (a), a reference to the respondent in the proceeding.

6 Meaning of *lawyer*

In these rules, a reference to the *lawyer* (however expressed) for a party to a proceeding includes, in relation to a party whose lawyer has another lawyer acting as his or her agent for the proceeding, a reference to the other lawyer.

7 Terms defined in *Magistrates Court Act*

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

8 References to forms by number

- (1) In these rules, other than in part 22 (Small Claims Court), 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 *Magistrates Court (Civil Jurisdiction) Act 1982* immediately before its repeal; or
 - (ii) is expressed to be made for these rules or the court in its civil jurisdiction.
- (2) In part 22, 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) is headed ‘Small Claims Court’ or is otherwise expressed to apply to the Small Claims Court.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to these rules.

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

- child
- government solicitor.

Note 3 For the meaning of terms defined in the *Magistrates Court Act 1930*, dict, see s 7.

account, for part 19 (Enforcement of judgments)—see section 287.

appellant, for an appeal in which there are 2 or more appellants, for part 21 (Appeals to Supreme Court), means all or any of the appellants.

copy, in relation to a document to be served in a proceeding, means—

- (a) if the document has been filed—a true copy sealed or stamped with the court’s seal; and
- (b) in any other case—a true copy.

costs, in relation to a proceeding, means costs between party and party of and incidental to the proceeding.

cross-claim means a claim (whether by way of counterclaim, cross-action, set-off or otherwise) pleaded in a notice of grounds of defence filed by a defendant in a proceeding.

debt due or accruing, for part 19 (Enforcement of judgments)—see section 287 (3).

defendant means the person against whom a proceeding has been begun.

earnings, in relation to a person, for part 19 (Enforcement of judgments)—see section 287.

examination summons, for part 19 (Enforcement of judgments)—see section 287.

examiner means a person appointed by the court to conduct an examination under section 202.

file a document means lodge the document in the court registry for inclusion in the court record.

garnishee, for part 19 (Enforcement of judgments)—see section 287.

garnishee order, for part 19 (Enforcement of judgments)—see section 287.

giving, of a judgment, for part 19 (Enforcement of judgments)—see section 287 (2).

instalment order, for part 19 (Enforcement of judgments)—see section 287.

insurer means a person who gives a bond mentioned in section 85.

judgment, for part 19 (Enforcement of judgments)—see section 287.

judgment creditor, for part 19 (Enforcement of judgments)—see section 287.

judgment debt, for part 19 (Enforcement of judgments)—see section 287.

judgment debtor, for part 19 (Enforcement of judgments)—see section 287.

officer, of a corporation, includes a director and a person having (whether alone or with others) powers of management, direction or control of the corporation.

originating process means—

- (a) a claim; or
- (b) an application mentioned in section 22.

person named, in relation to a subpoena issued under section 187, means the person to whom the subpoena is addressed.

person under disability means—

- (a) a child; or
- (b) a person with a mental disability.

person with a mental disability, in relation to a proceeding, means a person who is not legally competent to be a party to the proceeding, and includes such a person even if a guardian or manager has not been appointed for the person under the *Guardianship and Management of Property Act 1991*.

plaintiff means the person by whom a proceeding has been begun.

pleading means a claim, notice of grounds of defence, reply or third or subsequent party notice filed in a proceeding.

prescribed percentage means—

- (a) if the relevant amount is less than \$10 000—33%; or
- (b) if the relevant amount is not less than \$10 000 but is less than \$25 000—67%; or
- (c) if the relevant amount is not less than \$25 000 but is less than \$40 000—80%; or
- (d) if the relevant amount is not less than \$40 000—90%.

proceeding means a proceeding in the court.

property, for part 17 (Interpleader)—see section 239.

relevant amount, in relation to proceedings—see section 259.

subpoena for production means a written order requiring the person named in it to attend as directed by the order and to produce a document or thing for the purpose of evidence.

subpoena to give evidence means a written order requiring the person named in it to attend as directed by the order for the purpose of giving evidence.

third party, for part 8 (Third-party procedure)—see section 56.

writ of execution, for part 19 (Enforcement of judgments)—see section 287.

Endnotes

1 Making of rules

These rules were made as part of the Court Procedures Act 2004 (see A2004-59, s 100 and sch 2).

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
