



Australian Capital Territory

Judgment Creditors Remedies Act 1901 No 8

Republication No 2

Republication date: 31 July 2002

Last amendment made by Act 2001 No 56

Amendments incorporated to 5 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Judgment Creditors Remedies Act 1901* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)), as in force on 31 July 2002. It also includes any amendment, repeal or expiry affecting the republished law to 5 September 2001.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

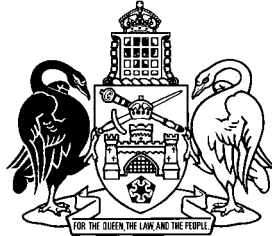
Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Judgment Creditors Remedies Act 1901

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Amendments incorporated to
5 September 2001



Australian Capital Territory

Judgment Creditors Remedies Act 1901

An Act to consolidate the enactments relating to the remedies of judgment
creditors

Part 1 Preliminary

1 Name of Act

This Act is the *Judgment Creditors Remedies Act 1901*.

Part 4 Execution against the person

19 **Limitation of arrest under *ca. sa.***

Except as provided in this Act, no person shall be arrested on any writ of *capias ad satisfaciendum* issuing out of the Supreme Court.

20 **Fraudulent concealment or intended departure**

If a judge of the Supreme Court is satisfied by affidavit that the defendant—

- (a) has fraudulently concealed money, goods or valuable securities from his or her judgment creditor; or
- (b) is about to leave the ACT either permanently or for an indefinite period, without satisfying the judgment;

the judge may order a writ of *capias ad satisfaciendum* to issue, and the defendant may be arrested on the writ.

21 **Actions for malicious injuries**

Nothing in sections 19 and 20 shall extend to any such writ issued in an action for breach of promise of marriage, libel, slander, seduction, or any malicious injury.

22 ***Ca. sa.* to fix bail**

If a defendant has been arrested or has given bail on a writ of *capias ad respondendum*, a writ of *capias ad satisfaciendum* may be issued to fix the bail or charge the defendant in execution as of course.

23 **Liability for escape**

If any debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor shall be liable only to an action on the case for damages sustained by the person at whose suit the debtor was taken or imprisoned, and shall not be liable to any action of debt in consequence of the escape.

24 Discharge of judgment debtor on authority of lawyer

- (1) A written order signed by the lawyer in the cause by whom any writ of *capias ad satisfaciendum* has been issued shall justify the sheriff, gaoler, or person in whose custody the party may be in discharging the party unless the party for whom the lawyer professes to act has given written notice to the contrary to the sheriff, gaoler, or person.
- (2) The discharge shall not be a satisfaction of the debt unless made by the authority of the creditor.
- (3) Nothing in this section shall justify any lawyer in giving an order for discharge without the consent of his or her client.

26 Ca. sa. may be executed on Sunday

Any writ of *capias ad satisfaciendum* issued out of the Supreme Court may be lawfully executed on Sunday.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a NSW Act—the *Judgment Creditors Remedies Act 1901* No 8 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *ACT Self-Government (Consequential Provisions) Act 1988 No 109* (Cwlth), s 12) converted some NSW Acts in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 1 July 1990.

Under the *Interpretation Act 1967* (repealed), s 65 all former NSW Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW Acts fully into ACT laws.

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

The Act was renamed as the *Judgment Creditors Remedies Act 1901* by the *Statute Law Amendment Act 2001 (No 2)* No 56 (see amdt 3.422).

NSW legislation

Judgment Creditors Remedies Act 1901 No 8

assented to 3 October 1901

commenced 3 October 1901

as amended by

Commonwealth legislation

New South Wales Acts Application Ordinance 1984 No 41

notified 10 August 1984

commenced 10 August 1984

Legislation after becoming Territory enactment

Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Statute Law Amendment Act 2001 (No 2) No 56 pt 3.27

notified 5 September 2001 (Gaz 2001 No S65)
s 1, s 2 commenced 5 September 2001 (IA s 10B)
pt 3.27 commenced 5 September 2001 (s 2 (1))

4 Amendment history

The *New South Wales Acts Application Act 1984*, sch 2, pt 20 sets out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT. (In the amended form, s 2, pt 2 (s 3), pt 3 (ss 4-18), s 25, pt 5 (ss 27-33) and the schedule were omitted). This endnote, therefore, only details amendments made after the enactment of the 1984 Act.

Name of Act

s 1 sub 2001 No 56 amdt 3.422

Discharge of judgment debtor on authority of lawyer

s 24 am 1997 No 96 sch 1

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1984 No 41	31 August 1992

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