



Australian Capital Territory

# **Administration of Justice Act 1696 8 and 9 Will 3 c 11**

## **Republication No 1**

Republication date: 19 July 2002

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Administration of Justice Act 1696* 8 and 9 Will 3 c 11, including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes), as in force on 19 July 2002. It also includes any amendment, repeal or expiry affecting the republished law.

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](http://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

# Administration of Justice Act 1696

## 8 and 9 Will 3 c 11

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Australian Capital Territory

# **Administration of Justice Act 1696**

## **8 and 9 Will 3 c 11**

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An Act for the better preventing frivolous and vexatious suits

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**8**

And be it further enacted, that in all actions, which shall be commenced or prosecuted in any of his Majesty's courts of record, upon any bond or bonds, or on any penal sum, for nonperformance of any covenants or agreements in any indenture, deed, or writing contained, the plaintiff or plaintiffs may assign as many breaches as he, she or they shall think fit, and the jury, upon trial of such action or actions, shall and may assess, not only such damages and costs of suit as have heretofore been usually done in such cases, but also damages of such of the said breaches so to be assigned, as the plaintiff upon the trial of the issues shall prove to have been broken, and that the like judgment shall be entered on such verdict as previously have been usually done in such like actions;

And if judgment shall be given for the plaintiff on a demurrer, or by confession, or *nihil dicit*, the plaintiff upon the roll may suggest as many breaches of the covenants and agreements as the plaintiff shall think fit, upon which shall issue a writ to the sheriff of that county where the action shall be brought, to summon a jury to appear before the justices or justice of assize, or *nisi prius*, of that county, to enquire of the truth of every one of those breaches, and to assess the damages that the plaintiff shall have sustained thereby;

In which writ it shall be commanded to the said justices or justice of assize, or *nisi prius*, that he, she or they shall make return thereof to the court from whence the same shall issue, at the time in such writ mentioned;

And in case the defendant or defendants, after such judgment entered, and before any execution executed, shall pay unto the court where the action shall be brought, to the use of the plaintiff or plaintiffs, or his, her or their executors or administrators, such damages so to be assessed by reason of all or any of the breaches of such covenants, together with the costs of suit, a stay of execution of the said judgment shall be entered upon record;

Or if by reason of an execution executed, the plaintiff or plaintiffs, or his, her or their executors or administrators, shall be fully paid or satisfied all such damages so to be assessed, together with his, her or their costs of suit, and all reasonable charges and expences for executing the said execution, the body, lands, or goods of the defendant, shall be thereupon forthwith discharged from the said execution, which shall likewise be entered upon record;

But notwithstanding in each case such judgment shall remain, continue, and be, as a further security to answer to the plaintiff or plaintiffs, and his, her or their executors or administrators, such damages as shall or may be sustained for further breach of any covenant or covenants in the same indenture, deed, or writing contained, upon which the plaintiff or plaintiffs may have a *scire facias* upon the said judgment against the defendant, or against his or her heir, terre-tenants, or his or her executors or administrators, suggesting other breaches, of the said covenants or agreements, and to summon him, her or them respectively to show cause why execution shall not be had or awarded upon the said judgment, upon which there shall be the like proceeding as was in the action of debt upon the said bond or obligation, for assessing of damages upon trial of issues joined upon such breaches, or inquiry thereof upon a writ to be awarded in manner as aforesaid;

And that upon payment or satisfaction in manner as aforesaid, of such future damages, costs, and charges, as aforesaid, all further proceedings on the said judgment are again to be stayed, and so *toties quoties*, and the defendant, his or her body, lands, or goods, shall be discharged out of execution, as aforesaid.

## 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	

### 3 Legislation history

This Act was originally a UK Act—(1696) 8 and 9 Will 3 c 11 (UK). The Act was renamed as the *Administration of Justice Act 1696* when it was first republished under the *Legislation Act 2001*.

The Act was apparently 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 *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former UK laws 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 11 May 1989 (self-government day).

#### Administration of Justice Act 1696

as amended by

#### Imperial Acts Application Act 1986 No 93 s 4 (1)

notified 12 January 1987 (Cwlth Gaz 1986 No S1)

s 4 (1) commenced 12 January 1987 (s 2 (1))

### 4 Amendment history

The *Imperial Acts Application Act 1986* (the **1986 Act**), section 4 (1) provided for section 8 of this Act to continue in force in the ACT. The rest of the Act was omitted.

The 1986 Act, section 4 (2) provided for this Act to cease to be in force in the ACT on the commencement of the subsection. However, the subsection had not commenced when the 1986 Act was repealed by the *Law Reform (Miscellaneous Provisions) Act 1999* No 66.

The 1986 Act removed any doubt about the application of the section in the ACT (see s 6 (3)).

This Act has not been amended since the enactment of the 1986 Act, except under the *Legislation Act 2001*.

#### Name of Act

am R1 LA



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