



Australian Capital Territory

# **Supreme Court Act 1933**

**A1933-34**

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## **About this republication**

### **The republished law**

This is a republication of the *Supreme Court Act 1933* effective 12 March 1993 to 5 September 1993.

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Australian Capital Territory  
**SUPREME COURT ACT 1933**

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Australian Capital Territory  
**SUPREME COURT ACT 1933**

An Act to establish a Supreme Court of the Australian Capital Territory, and for other purposes

**PART I—PRELIMINARY**

**Short title**

1. This Act may be cited as the *Supreme Court Act 1933*.<sup>1</sup>

**Interpretation**

2. In this Act, unless the contrary intention appears—
  - “additional Judge” means a Judge appointed under subsection (2) of section 4;
  - “cause” includes any suit, and also includes criminal proceedings;
  - “Chief Justice” means the Chief Justice of the Court, and includes a Judge for the time being performing the duties and exercising the powers of the Chief Justice;
  - “defendant” includes any person against whom any relief is sought in a matter or who is required to attend the proceedings in a matter as a party thereto;
  - “Deputy Registrar” means a Deputy Registrar of the Supreme Court;
  - “Deputy Sheriff” means a Deputy Sheriff of the Territory;
  - “enactment” has the same meaning as in section 3 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;
  - “Judge” or “Judge of the Supreme Court” means a Judge (including the Chief Justice) appointed under subsection (1) of section 4 or an additional Judge and, in the expressions “the Supreme Court or the Judge”, “the Court or the Judge” and “the Court or Judge”, means a Judge so appointed, or an additional Judge, sitting in Chambers;

- “judgment” includes any decree, order or sentence;
- “Master” means the Master of the Supreme Court;
- “matter” includes any proceeding in the Supreme Court, whether between parties or not, and also any incidental proceeding in a cause or matter;
- “Ordinance” means an Ordinance made by the Governor-General in pursuance of the *Seat of Government (Administration) Act 1910-1933* of the Commonwealth;
- “plaintiff” includes any person seeking any relief against any other person by any form of proceeding in a Court;
- “President” means the President of the Australian Capital Territory Administrative Appeals Tribunal appointed under the *Administrative Appeals Tribunal Act 1989* of the Territory;
- “suit” includes any action or original proceeding between parties of a civil nature;
- “the Court” means the Supreme Court;
- “the Judicature Act” means the *Supreme Court of Judicature Act 1873* (36 & 37 Vic., Cap. 66) of the United Kingdom;
- “the Registrar” means the Registrar of the Supreme Court, and includes a Deputy Registrar of the Supreme Court;
- “the Sheriff” means the Sheriff of the Territory;
- “the Supreme Court” means the Supreme Court of the Australian Capital Territory;
- “the Territory” or “the Australian Capital Territory” means the Territory accepted by the Commonwealth in pursuance of the *Seat of Government Acceptance Act 1909* of the Commonwealth, and described in the Second Schedule to that Act, and includes the Jervis Bay Territory.

## **PART II—CONSTITUTION AND JURISDICTION OF THE SUPREME COURT**

### **Establishment of Supreme Court**

**3. (1)** There shall be a Supreme Court of the Territory which shall be known as the Supreme Court of the Australian Capital Territory.

**(2)** The Court shall be a superior court of record.

(3) The Court shall consist of the Chief Justice and not more than 2 other Judges appointed under subsection (1) of the next succeeding section and the additional Judge or Judges appointed under subsection (2) of that section.

### **Appointment and tenure of Judges**

4. (1) Subject to section 3, the Executive may appoint under this subsection, by commission, a Chief Justice of the Court and other Judges of the Court.

(1A) A person shall not be appointed under subsection (1) if he has attained the age of 70 years and a person shall not be so appointed unless he is or has been a Judge of a court created by the Commonwealth Parliament or of a court of a State or Territory or has been enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.

(2) The Executive may appoint, by commission, a person who, or persons each of whom, is a Judge of another court created by the Commonwealth Parliament, or a superior court of record of a State or Territory, to be an additional Judge or additional Judges of the Supreme Court.

(4) A Judge appointed under subsection (1) ceases to hold office upon his attaining the age of seventy years.

(5) An additional Judge ceases to hold office if he no longer holds office as a Judge (other than an additional Judge) of another court created by the Commonwealth Parliament or a superior court of record of a State or Territory.

(6) A Judge may be removed from office by the Executive, on an address from the Assembly praying for his removal on the ground of proved misbehaviour or incapacity, but shall not otherwise be removed from office.

(7) A Judge may, by writing under his hand delivered to the Attorney-General, resign his office.

### **Seniority of Judges**

5. (1) The Chief Justice is the senior Judge of the Court.

(2) The other Judges (including the additional Judges) have seniority as between themselves:

- (a) according to the dates on which their commissions took effect; or
- (b) if the commissions of 2 or more of them took effect on the same date, according to the precedence assigned to them by their commissions.

### **Acting Chief Justice**

6. Whenever—

- (a) the Chief Justice is absent from Australia or from duty; or
- (b) there is a vacancy in the office of Chief Justice,

the next senior Judge who is in Australia and is able and willing to do so shall perform the duties, and may exercise the powers, of the Chief Justice.

### **Arrangement of business of Court**

7. The Chief Justice is responsible for ensuring the orderly and expeditious discharge of the business of the Court and accordingly may, subject to this Act and to such consultation with the Judges as is appropriate and practicable, make arrangements as to the Judge or Judges who is or are to constitute the Court in particular matters or classes of matters.

### **Exercise of jurisdiction**

8. (1) Subject to subsection (2) and sections 9, 10, 11, 12 and 13, the jurisdiction of the Supreme Court is exercisable by one Judge, sitting in Court, or, as provided by this Act, sitting in chambers.

(2) Provision may be made by Rules of Court for the jurisdiction of the Court that is exercisable in accordance with subsection (1) to be exercisable:

- (a) in such cases, and subject to such conditions, as are specified in the Rules of Court, by the Master; and
- (b) in such cases, and subject to such conditions, as are specified in the Rules of Court, by the Registrar.

(3) In this section, “Registrar” does not include a Deputy Registrar.

### **Exercise of jurisdiction by Master**

9. (1) For the purposes of the exercise of jurisdiction conferred on the Master by Rules of Court, this Act has effect, subject to this section, as if the court consisted of the Judges and the Master.

(2) A person who is dissatisfied with a judgment of the Master made in the exercise of jurisdiction conferred by Rules of Court may appeal, as prescribed by the Rules of Court:

- (a) in the case of an interlocutory judgment—to the Court constituted by one Judge; and
- (b) in the case of any other judgment—to the Court constituted by not less than 3 Judges.

(3) On an appeal under subsection (2), the Court:

- (a) shall have regard to the evidence given in the proceedings out of which the appeal arose; and

- (b) has power:
- (i) to draw inferences of fact; and
  - (ii) in its discretion, to receive further evidence, which evidence may be taken:
    - (A) on affidavit;
    - (B) by oral examination before the Court or a Judge; or
    - (C) otherwise under section 57.

(4) On an appeal under subsection (2), the Court may affirm, vary or set aside the judgment of the Master and may make such order as in all the circumstances it considers just.

#### **Exercise of jurisdiction by Registrar**

**10. (1)** For the purposes of the exercise of jurisdiction conferred on the Registrar by Rules of Court, this Act has effect, subject to this section, as if the court consisted of the Judges and the Registrar.

(2) A person who is dissatisfied with an order of the Registrar made in the exercise of jurisdiction conferred by Rules of Court may appeal, as prescribed by the Rules of Court, to the Court constituted by one Judge.

(3) On an appeal under subsection (2), the Court may affirm, vary or set aside the order of the Registrar and may make such order as in all the circumstances it considers just.

#### **Exercise of jurisdiction in relation to legal practitioners**

**11. (1)** The jurisdiction of the Supreme Court in an application made under an Ordinance or enactment relating to legal practitioners, being an application for admission to practise as a barrister and solicitor, or as a barrister or as a solicitor, of the Court, must be exercised by at least 3 Judges sitting together in Court, unless the Chief Justice directs otherwise.

(2) The jurisdiction of the Supreme Court in the following matters must be exercised by at least 3 Judges sitting together in Court:

- (a) a matter relating to the issue or cancellation of a practising certificate under an Ordinance or enactment relating to legal practitioners;
- (b) a matter relating to the professional behaviour or conduct of a legal practitioner.

(3) This section does not prevent a single Judge from giving directions of an interlocutory kind in relation to a matter mentioned in subsection (2).

**Exercise of jurisdiction under subsections 46 (4) and 48 (2) of the  
*Administrative Appeals Tribunal Act 1989* of the Territory**

**12. (1)** The jurisdiction conferred by subsection 46 (4) of the *Administrative Appeals Tribunal Act 1989* of the Territory:

- (a) may be exercised by the Court constituted by not less than 3 Judges;  
and
- (b) must be so exercised if:
  - (i) the Tribunal's decision was given by the Tribunal constituted by a member who was, or by members at least one of whom was, a presidential member other than a Judge; and
  - (ii) after consulting the President, the Chief Justice considers that it is appropriate for the appeal from the decision to be heard and determined by the Court constituted by not less than 3 Judges;  
and
- (c) must be so exercised if the Tribunal's decision was given by the Tribunal constituted by a member who was, or by members at least one of whom was, a Judge.

**(2)** The jurisdiction conferred by subsection 48 (2) of the *Administrative Appeals Tribunal Act 1989* of the Territory must be exercised by the Court constituted by not less than 3 Judges if, after consulting the President, the Chief Justice considers that it is appropriate for the question to be heard and determined by the Court so constituted.

**Power of Judge to order that jurisdiction in a matter be exercised by not less than 3 Judges**

**13. (1)** This section applies in relation to matters in which, but for this section, the jurisdiction of the Court would be exercisable by one Judge.

**(2)** At any time before the commencement of the hearing of a matter in relation to which this section applies, a Judge may order that the jurisdiction of the Supreme Court in that matter shall be exercised by not less than three Judges.

**(3)** At any time after the commencement of the hearing of a matter in relation to which this section applies, the Judge hearing the matter may order that the jurisdiction of the Supreme Court in that matter shall be exercised by not less than three Judges.

**(4)** Where an order has been made under either of the last two preceding subsections in relation to a matter—

- (a) the jurisdiction of the Court in that matter shall, subject to the Rules of Court, be exercised by not less than three Judges sitting together in Court; and
- (c) the Court may give such directions as it thinks proper as to the procedure to be followed in the further conduct of the proceedings, including, in a case where evidence was received before the making of the order, directions as to the use (if any) to be made of that evidence.

**Manner in which question to be decided where jurisdiction exercised by 3 or more Judges**

**14.** If three or more Judges sitting together in accordance with section 9, 11, 12 or 13 are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, if there is a majority, but if the Judges are equally divided in opinion—

- (a) in a case where a judgment of the Master is called in question—the judgment shall be affirmed; and
- (b) in any other case:
  - (i) where a Judge or Judges appointed under subsection 4 (1) is or are sitting—the opinion of that Judge or of the senior of them as the case may be, prevails; or
  - (ii) where no such Judge is sitting—the opinion of the senior additional Judge sitting prevails.

**Exercise by Court of powers of Master**

**15. (1)** Where the jurisdiction of the Court is to be, or is being, exercised in a particular case by the Master:

- (a) the Master may, on the Master's own motion or on the application of a party to the proceedings, refer the proceedings to the Court constituted by one Judge; and
- (b) a Judge may, on the application of a party to the proceedings, at any time before the conclusion of the proceedings before the Master, order that the jurisdiction of the Court in the case be exercised by the Court constituted by one Judge.

**(2)** Where, under subsection (1), proceedings are referred or removed to the Court constituted by one Judge, the Court may:

- (a) give such directions as it considers appropriate as to the procedure to be followed in the further conduct of the proceedings, including, in a

case where evidence was recorded before the referral or removal, directions as to the use (if any) to be made of the evidence; and

- (b) remit the proceedings to the Master with such directions as the Court considers appropriate.

### **Holding of other judicial offices**

**16. (1)** Subject to subsections (2) and (3), a person may be a Judge of the Supreme Court notwithstanding that he is also a Judge of another court created by the Commonwealth Parliament, or is also the holder of a judicial office in a State or Territory other than the Australian Capital Territory, by virtue of an appointment made either before or after his appointment as a Judge of the Supreme Court.

**(2)** A Judge of the Court may, with the written approval of the Executive, hold another judicial office that is created by or under a law of the Commonwealth, a State or another Territory.

**(3)** The Executive must consult with the Chief Justice before giving the approval.

**(4)** Subsection (2) does not apply in relation to an additional Judge of the Court.

### **Salary and allowances of Judges**

**17. (1)** The Chief Justice and the other Judges appointed under subsection 4 (1) are to receive salary and allowances under section 73 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

**(2)** The salary and annual allowance to which a Judge is entitled accrue from day to day and are payable monthly.

**(3)** An additional Judge shall be remunerated with the salary and annual allowance that he receives as a Judge of the other court or courts of which he is a Judge.

**(4)** The Consolidated Revenue Fund is appropriated to the extent necessary for payment of salaries and allowances in accordance with subsection (1).

**(5)** Subject to subsection (6), a person who holds office as a Judge of the Court by virtue of an appointment that took effect while he was a Judge (including the Chief Judge) of the Federal Court of Australia is not, while he continues to hold office both as a Judge of the Court and as a Judge (including the Chief Judge) of the Federal Court of Australia, entitled to receive salary or annual allowance as provided in subsection (1).

(6) In the case of a Judge of the Court to whom subsection (5) applies, if the salary or annual allowance to which he would be entitled as a Judge of the Court if that subsection were not applicable to him exceeds the salary or annual allowance, as the case may be, by which he is remunerated as a Judge (including the Chief Judge) of the Federal Court of Australia, he shall receive, in respect of his office as a Judge of the Court, an additional amount by way of salary or annual allowance, as the case may be, equal to the excess.

### **Principal seat of court and sittings**

18. (1) The Supreme Court may sit at Canberra, and at such other places in the Commonwealth as are from time to time determined by the Chief Justice.

(2) The times of the sittings of the Supreme Court shall be such as are from time to time specified by Rules of Court.

(3) The offices of the Supreme Court shall be at Canberra.

### **Oath of allegiance and office by Judge**

19. Each Judge shall, before proceeding to discharge the duties of the office of Judge, take before another Judge of the Court, a Justice of the High Court or a Judge of the Federal Court of Australia an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution of the Commonwealth, and also an oath or affirmation in accordance with the following form:

“I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of Chief Justice [or Judge] of the Supreme Court of the Australian Capital Territory, and I will do right to all manner of people according to law, without fear or favour, affection or ill-will, So help me, God”;

or

“I, A.B., do solemnly and sincerely promise and declare that I will well and truly serve our Sovereign Lord the King in the office of Chief Justice [or Judge] of the Supreme Court of the Australian Capital Territory, and I will do right to all manner of people according to law, without fear or favour, affection or ill-will.”.

### **Jurisdiction and powers of the Supreme Court**

20.<sup>2</sup> (1) The Supreme Court has the following jurisdiction:

- (a) all original and appellate jurisdiction that is necessary to administer justice in the Territory;
- (b) jurisdiction conferred by a Commonwealth Act or a law of the Territory.

(2) Unless it is required to do so by or under a Commonwealth Act or a law of the Territory, the Supreme Court is not bound to exercise its powers where it has concurrent jurisdiction with another court or tribunal.

### **Jurisdiction in Chambers**

21. (1) The jurisdiction of the Supreme Court that is exercisable by one Judge may be exercised by the Judge sitting in Chambers, in the following cases:

- (a) Applications relating to the conduct of a cause or matter;
- (b) Applications relating to the custody, management or preservation of property, or to the sale of property and the disposition of the purchase money;
- (c) Applications which, by the terms of any law of the State of New South Wales continued in force in the Territory, may be made to a Judge of the Supreme Court of New South Wales sitting in Chambers; and
- (d) Applications for directions and other applications which, by or under this, or any other Act, by or under an Ordinance or enactment or by Rules of Court, are authorized to be made to the Judge sitting in Chambers;

but the Judge may order the application to be adjourned into Court and heard in open Court.

(2) The jurisdiction of the Supreme Court exercisable by the Judge sitting in Chambers may be so exercised at Canberra or at any other place in the Commonwealth.

### **Trial without jury**

22. (1) In every suit in the Supreme Court, unless the Court or the Judge otherwise orders, the trial shall be by the Court without a jury.

(2) The Supreme Court or the Judge may, if it appears just, order specially that any action or any issue of fact in any suit shall be tried before the Court with a jury.

(3) The Supreme Court shall exercise the same jurisdiction as the Supreme Court of New South Wales sitting in Banco has, at the commencement of this Act, to set aside a verdict or finding of a jury, to enter judgment notwithstanding any such verdict or finding and to order a new trial after a trial with a jury.

### **Costs**

**23. (1)** The Supreme Court, and the Judge sitting in Chambers, shall have jurisdiction to award costs in all matters brought before the Court, including matters dismissed for want of jurisdiction.

**(2)** Subject to Rules of Court, to any Ordinance, to any enactment and to the express provisions of any other Act, the costs of and incidental to all proceedings in the Supreme Court, including the administration of estates and trusts, shall be in the discretion of the Court or Judge, and the Court or Judge shall have full power to determine by whom and to what extent the costs are to be paid.

**(3)** Nothing in this section shall alter the practice which would otherwise be followed in any criminal cause or matter or in proceedings on the Crown side of the Court.

#### **Service of writs out of the jurisdiction of the Court**

**24.** Writs of summons issued out of the Supreme Court and notices of such writs may be served out of the jurisdiction of the Court in the manner and to the extent provided by the Rules of Court.

#### **Law and equity to be concurrently administered**

**25.** Subject to the express provisions of any other Act, in every civil cause or matter commenced in the Supreme Court law and equity shall be administered according to the provisions of sections 26 to 32 (inclusive) of this Act.

#### **Equities of plaintiff**

**26.** If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in the cause or matter, or to any relief founded upon a legal right, which could in England immediately before the commencement of the Judicature Act only have been given by a Court of Equity, the Supreme Court or the Judge shall give to the plaintiff or petitioner the same relief as ought then to have been given by the English Court of Chancery in a suit or proceeding for the like purpose properly instituted.

#### **Equities of defendant**

**27.** If a defendant claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in the cause or matter, or alleges any ground of equitable defence to any such claim of the plaintiff or petitioner, the Supreme Court or the Judge shall give to every

equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, the same effect by way of defence against the claim of the plaintiff or petitioner, as the English Court of Chancery ought, immediately before the commencement of the Judicature Act, to have given if the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the like purpose.

### **Counter claims and third parties**

**28. (1)** The Supreme Court or the Judge shall have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him—

- (a) all such relief against any plaintiff or petitioner as the defendant has properly claimed by his pleading, and as the Court or Judge might have granted in any suit instituted for that purpose by that defendant against the same plaintiff or petitioner; and
- (b) all such relief relating to or connected with the original subject of the cause or matter, claimed in like manner against any other person, whether already a party to the cause or matter or not, who has been duly served with notice in writing of the claim pursuant to Rules of Court, any Ordinance, any enactment or any order of the Court, as might properly have been granted against that person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose.

**(2)** Every person served with any such notice shall thenceforth be deemed a party to the cause or matter with the same rights in respect of his defence against the claim as if he had been duly sued in the ordinary way by the defendant.

### **Equities appearing incidentally**

**29.** The Supreme Court or the Judge shall take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the English Court of Chancery would, immediately before the commencement of the Judicature Act, have taken notice of those matters in any suit or proceeding properly instituted therein.

### **Defence or stay instead of injunction or prohibition**

**30.** No cause or proceeding at any time pending in the Supreme Court shall be restrained by prohibition or injunction, but every matter of equity on which

an injunction against the prosecution of any such cause or proceeding, if such cause or proceeding had been a suit or proceeding properly instituted in the English Court of Chancery for the like purpose, might, immediately before the commencement of the Judicature Act, have been obtained, whether unconditionally or on any terms or conditions, may be relied on by way of defence thereto;

Provided that—

- (a) nothing in this Act shall disable the Court, if it thinks fit so to do, from directing a stay of proceedings in any cause or matter pending before it; and
- (b) any person, whether a party or not to any such cause or matter, who, if the cause or matter had been a suit or proceeding properly instituted in the English Court of Chancery for the like purpose would, immediately before the commencement of the Judicature Act, have been entitled to apply to any court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule or order, in contravention of which all or any part of the proceedings in the cause or matter have been taken, may apply to the Court by motion in a summary way, for a stay of proceedings in the cause or matter, either generally, or so far as may be necessary for the purposes of justice, and the Court shall thereupon make such order as is just.

### **Common law and statutory rights and duties**

**31.** Subject to the provisions of this Act for giving effect to equitable rights and other matters of equity, the Supreme Court or the Judge shall give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities existing under the law in force in the Territory, including common law and custom.

### **Determination of matter completely and finally**

**32.** The Supreme Court, in the exercise of the jurisdiction vested in it by this Act, shall, in every cause or matter pending before the Court, grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided.

### **Rules of equity to prevail**

**33.** In questions relating to the custody and education of infants and generally in all matters not particularly mentioned in this Act, in which there was formerly or is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.

### **Mandamus, injunctions and receivers**

**34. (1)** The Supreme Court may grant a mandamus or an injunction or appoint a receiver by any interlocutory order in all cases in which it appears to the Court to be just or convenient so to do.

**(2)** Any such order may be made either unconditionally or on such terms and conditions as the Court thinks just.

**(3)** If, whether before, or at, or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the Court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

### **Practice and procedure**

**35.** Where no provision in relation to a matter of practice and procedure of the Supreme Court is contained in this or any other Act, an Ordinance, an enactment or Rules of Court, that matter shall be governed, as nearly as may be, by the practice and procedure of the High Court in similar matters and, if that practice and procedure is not applicable, that matter shall be governed, as nearly as may be, by the practice and procedure of the Supreme Court of New South Wales.

### **Rules of Court**

**36. (1)** The Judges appointed under subsection (1) of section 4 or any two of those Judges may make Rules of Court, not inconsistent with this or any other Act, with regulations under this or any other Act, with any Ordinance or with any enactment—

- (a) for regulating and prescribing—
  - (i) the practice and procedure, including the method of pleading, to be followed in the Supreme Court and in the offices of the Court; and

- (ii) all matters and things incidental to or relating to any such practice and procedure or necessary or convenient to be prescribed for the conduct of any business of the Court;
  - (b) for prescribing any matter or thing that is, by any law of the Commonwealth or of the Territory that makes provision for the incorporation of, and otherwise in relation to, companies, required or permitted to be prescribed by regulation under that law;
  - (c) for prescribing the qualifications for the admission of persons to practise as barristers and solicitors of the Supreme Court; and
  - (d) for prescribing any matter or thing that is, by this Act or by any Ordinance or enactment, required or permitted to be prescribed by Rules of Court.
- (2) In particular the Rules of Court may provide—
- (a) for the places of sitting of the Court;
  - (b) for the service and execution of the process of the Court including the manner in which and the extent to which the process of the Court may be served and executed out of the jurisdiction of the Court;
  - (c) for the execution of the judgments of the Court;
  - (d) for the service and execution in the Territory, in accordance with any treaty or convention to which the Commonwealth is a party, of the process of any Court of a State or of a Territory or of any foreign Court;
  - (e) for the issue by the Supreme Court of letters of request for the service in any foreign country of any process of the Supreme Court;
  - (f) for regulating any matters relating to the costs of proceedings in the Court; and
  - (g) for regulating the means by which particular facts may be proved and the mode in which evidence thereof may be given in any proceedings, or on any application in connexion with, or at any state of, any proceedings.

### **Regulations relating to fees**

**37.** The Executive may make regulations—

- (a) prescribing the fees or other payments to be paid to officers of the Court in respect of proceedings in the Court, or of the service or execution of the process of the Court by officers of the Court; and

- (b) making provision, not inconsistent with this Act, necessary or convenient to be made for and in relation to the payment or remission of any such fees or other payments.

### **PART III—THE MASTER**

#### **The Master**

**38.** There shall be a Master of the Court.

#### **Powers and duties of Master**

**39. (1)** The Master has power to administer oaths, and may exercise such other powers, and shall perform such duties, as are assigned to the Master by or under an Act, Ordinance or enactment, by Rules of Court or by a special order of the court.

**(2)** Where, under a law of New South Wales that is continued in force in the Territory as a law of the Territory, a power is exercisable, or a duty is to be performed, or a thing is to be done, by the Master in Equity, it may be exercised, performed or done by:

- (a) the Master; or
- (b) at a time when there is no Master, the Registrar;

#### **Appointment of Master**

**40. (1)** The Master shall be appointed by the Executive.

**(2)** A person shall not be appointed as the Master unless the person has been enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.

**(3)** A person who has attained 65 years of age shall not be appointed as the Master.

#### **Term of office**

**41. (1)** The Master:

- (a) holds office on and from the day specified in the instrument of appointment; and
- (b) holds office, subject to this Act:
  - (i) for such term (not exceeding 7 years) as is specified in the instrument of appointment, but is eligible for re-appointment; or
  - (ii) if the instrument of appointment so provides, until attaining 65 years of age.

(2) The Master ceases to hold office on attaining 65 years of age.

### **Oath or affirmation of office**

42. The Master shall, before proceeding to discharge the duties of the office, take, before the Chief Justice or another Judge of the Court, an oath or affirmation in the following form:

“I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her in the office of Master of the Supreme Court of the Australian Capital Territory, So help me God.”

*or*

“I, \_\_\_\_\_, do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her in the office of Master of the Supreme Court of the Australian Capital Territory.”

### **Resignation**

43. The Master may resign by writing signed and delivered to the Attorney-General.

### **Removal from office**

44. (1) The Governor-General may remove the Master from office on an address praying for his or her removal on the ground of proved misbehaviour or incapacity being presented to the Governor-General by each House of the Parliament in the same session of the Parliament.

(2) The Governor-General may suspend the Master from office on the ground of misbehaviour or incapacity.

(3) Where the Governor-General suspends the Master from office, the Minister shall cause a statement of the grounds of the suspension to be laid before each House of Parliament within 7 sitting days of that House after the suspension.

(4) The suspension terminates if:

- (a) at the end of 7 sitting days of a House of the Parliament after the suspension, the statement has not been laid before that House; or
- (b) at the end of 15 sitting days of a House of the Parliament after the day on which the statement has been laid before that House, an address

under subsection (1) has not been presented to the Governor-General by that House.

(5) The suspension of the Master from office does not affect any entitlement of the Master to be paid remuneration and allowances.

(6) If the Master becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, the Governor-General shall remove the Master from office.

(7) The Governor-General may, with the consent of the Master, retire the Master from office on the ground of incapacity.

(8) The Master may be removed, suspended or retired from office only under this section.

### **Acting appointments**

45. (1) The Executive may appoint a person who is eligible to be appointed as Master to act as the Master:

- (a) during a vacancy in the office of Master (whether or not an appointment has previously been made to the office); or
- (b) during any period when the Master is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

(2) A person appointed to act as Master shall not continue to act for more than 12 months.

(3) Where:

- (a) a person is acting under paragraph (1) (b); and
- (b) the office of Master becomes vacant;

then, subject to subsection (2), the person may continue to act until the vacancy is filled.

(4) A person acting as Master has all the powers and duties of the Master, and the laws of the Territory (including this Act and the Rules of Court) apply in relation to the person as if the person were the Master.

(5) The Executive may determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Master.

(6) A person acting as Master may be removed or suspended from office only under section 44.

(7) Anything done by or in relation to a person purporting to act as Master is not invalid because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in connection with the appointment;  
or
- (c) the appointment had ceased to have effect.

## **PART IV—OFFICERS**

### **Registrar, Sheriff and other officers**

**46. (1)** There shall be—

- (a) a Registrar of the Supreme Court, and such Deputy Registrars and other officers of the Supreme Court as are necessary; and
- (b) a Sheriff of the Territory and such Deputy Sheriffs of the Territory as are necessary.

(2) The Registrar, the Deputy Registrars and other officers of the Supreme Court, and the Sheriff and the Deputy Sheriffs, shall be appointed by the Attorney-General.

(3) Subject to this Act and to the directions of the Registrar, a Deputy Registrar has, and may exercise and perform, all the powers and functions of the Registrar under this or any other Act, an Ordinance, an enactment or Rules of Court.

(4) The appointment of a person to be a Deputy Registrar does not affect the exercise or performance of a power or function by the Registrar.

### **Powers and duties of Registrar**

**47. (1)** The Registrar has power to administer oaths, and may exercise such other powers, and shall perform such duties, as are assigned to him by or under any Act or Ordinance, by enactment, by Rules of Court or by a special order of the Court.

(2) Where, under a law of the State of New South Wales which is continued in force in the Territory as a law of the Territory, a power is exercisable, or a duty is to be performed, or a thing is to be done, by the Prothonotary or a Registrar, it may be exercised, performed or done by the Registrar.

### **Oath or affirmation of office**

**48.** The Registrar must, before proceeding to discharge the duties of the office, take, before a Judge of the Court, an oath or affirmation in the following form:

“I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her in the office of Registrar of the Supreme Court of the Australian Capital Territory, so help me God.”

or

“I, \_\_\_\_\_, do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her in the office of Registrar of the Supreme Court of the Australian Capital Territory.”

#### **Proceedings before Registrar in relation to winding-up of companies**

**49. (1)** When the Supreme Court makes an order for the winding-up of a company, the Court may direct that subsection (2) applies to the winding-up.

**(2)** If the Court gives a direction under subsection (1):

- (a) all proceedings in relation to the winding-up must be had and taken before the Master or the Registrar; and
- (b) the Master and the Registrar have all the powers of the Court in relation to the winding-up; and
- (c) the Master or the Registrar may refer to the Court any matter in relation to the winding-up that he or she thinks proper to be determined by the Court; and
- (d) an appeal lies to the Court from any order, decree or direction of the Master or the Registrar made or given in relation to the winding-up.

**(3)** In this section, “the Registrar” does not include a Deputy Registrar.

#### **Sheriff**

**50.** The Sheriff shall be charged with the service and execution of all writs, summonses, orders, warrants, precepts, process, and commands of the Supreme Court which are directed to him, and shall make such return thereof to the Court, together with the manner of the execution thereof, as he is thereby required, and shall take receive and detain all persons who are committed to his custody by the Court, and shall discharge all such persons when thereunto directed by the Court or by law.

#### **Powers of officers**

**51.** All powers and functions exercisable by, and all rights, privileges, immunities, duties and liabilities belonging to, the Sheriff of New South Wales in the State of New South Wales under any law of that State which is continued in force in the Territory as a law of the Territory, shall, in the Territory, be exercisable by and belong to the Sheriff of the Territory.

### **Deputy Sheriffs**

**52. (1)** Subject to the directions of the Sheriff, a Deputy Sheriff has, and may exercise and perform, all the powers and functions of the Sheriff under this or any other Act, an Ordinance, enactment or Rules of Court, and, in exercising or performing those powers and functions, has the same rights, privileges, immunities, duties and liabilities as the Sheriff.

**(2)** The appointment of a person to be a Deputy Sheriff does not affect the exercise or performance of a power or function by the Sheriff.

### **Appointment of officers to assist the Sheriff**

**53. (1)** The Attorney-General may appoint persons to assist the Sheriff in the execution of the Sheriff's duties.

**(2)** An act done by a person so appointed:

- (a)** is taken to be done by and under the authority of the Sheriff; and
- (b)** is as valid and effectual as if done by the Sheriff.

**(3)** A person so appointed:

- (a)** may exercise any powers or functions invested in the Sheriff; and
- (b)** has the rights, privileges, immunities and liabilities of the Sheriff.

**(4)** If a person so appointed is not a public servant, the person is to receive such remuneration as the Attorney-General determines or, if no such determination is in force, as is prescribed.

## **PART V—GENERAL MATTERS OF PROCEDURE**

### **Manner of giving evidence**

**54.** Except as otherwise provided by this Act by an Ordinance or by an enactment, or unless in any suit the parties agree to the contrary, evidence in any matter shall be given orally in open court.

### **Evidence by affidavit**

**55. (1)** On the hearing of any matter, evidence may be given by affidavit of the service of any document incidental to the proceedings in the matter or of the signature of a party to the matter, or of his solicitor, to such a document.

(2) On or before the hearing of a civil matter, the Court or a Judge may, for sufficient reason, order that all or a part of the evidence in the matter, being evidence that but for the order would be required to be given orally in open court, may be given by affidavit.

(3) An order under the last preceding subsection may be made subject to such conditions as the Court or Judge thinks just.

(4) The conditions referred to in the last preceding subsection may include a condition that copies of an affidavit by which any evidence is given be served on a party or parties to the matter and a condition that a person whose evidence is given by affidavit attend at the hearing for cross examination.

#### **Appearance by barrister or solicitor**

56. A party in a cause or matter may appear before the Supreme Court either personally or by a barrister or solicitor having the right to practise in the Court.

#### **Orders and commissions for examination of witnesses**

57. The Supreme Court or the Judge may, in any suit or civil matter pending in the Court, and at any stage of the proceedings—

- (a) order the examination of any person upon oath, orally or on interrogatories, before the Court or Judge or before any officer of the Court or other person; and at any place within the Commonwealth;
- (b) order a commission or letters of request to be issued to take evidence;
- (c) by the same or any subsequent order, give any necessary directions touching the time, place and manner of any such examinations; and
- (d) empower any party to the suit or civil matter to give in evidence in the suit or matter the testimony so taken on such terms (if any) as the Court or Judge directs.

#### **Non-appearance or absence of some defendants**

58. (1) When there are several defendants in any cause pending in the Supreme Court, if any defendant is not served with process and does not voluntarily appear, the Court may nevertheless entertain the cause and proceed to hear and determine it between the parties who are properly before the Court; but the judgment given in the cause shall not conclude or prejudice other parties who are not regularly served with process and do not voluntarily submit to the jurisdiction of the Court.

(2) When, in any suit of which the Supreme Court has jurisdiction, any defendant is not a resident of, or found within, the Commonwealth, and does

not voluntarily appear in the suit, the Court may nevertheless proceed to exercise its jurisdiction after such notice to the defendant and upon such terms as are prescribed by Rules of Court.

### **Amendment of defect in proceedings**

**59.** The Supreme Court or the Judge may at any time, and on such terms as it or he thinks just, amend any defect or error in any proceedings in the Court; and all necessary amendments shall be made for the purpose of determining the real questions in controversy or otherwise depending on the proceedings.

### **Formal defects to be amended**

**60. (1)** No proceedings in the Supreme Court shall be invalidated by any formal defect or by any irregularity, unless the Court is of opinion that substantial injustice has been caused thereby and that the injustice cannot be remedied by an order of the Court.

**(2)** The Court or the Judge may make an order declaring that any proceeding is valid notwithstanding any such defect or irregularity.

### **Reserved judgments**

**61. (1)** Where any proceeding, after being fully heard before a Court constituted by not less than 3 Judges sitting together, is ordered to stand for judgment, it is not necessary that all the Judges before whom it was heard be present together in Court to declare their opinions on the matter to which the proceedings relate, but the opinion of any one of them may be reduced to writing and may be made public by any other of them at any subsequent sitting of the Court at which judgment in the proceeding is delivered.

**(2)** In any such case the question shall be decided in the same manner, and the judgment of the Court has the same force and effect, as if the Judge whose opinion is so made public had been present in court and had declared his opinion in person.

### **Matter heard at one place may be further dealt with at another place**

**62.** When any cause or matter has been heard at a sitting of the Supreme Court held at any place the Court may pronounce judgment or give further hearing or consideration to the cause or matter at a sitting of the Court held at another place, being a place at which the Court is empowered to sit.

### **Change of venue**

**63.** The Supreme Court or the Judge may, at any stage of any suit pending in the Court, direct that the trial shall be had or continued at some particular

place, being a place at which the Court is empowered to sit, to be specified in the order, subject to such conditions (if any) as the Court or Judge imposes.

### **Seal**

**64.** The Supreme Court shall have and use as occasion requires a Seal, having inscribed thereon the words “The Seal of the Supreme Court of the Australian Capital Territory”. The Seal shall be kept in such custody as the Chief Justice directs.

### **Use of Seals**

**65.** All writs, commissions and process issued from the Supreme Court shall be in the name of the King, and shall be under the Seal of the Court or such other seal as is prescribed by Rules of Court, and shall be signed by the Registrar or other proper officer.

### **Date of process**

**66.** All writs and process issued from the Supreme Court shall be dated as of the day on which they are issued.

### **Oaths and affirmations**

**67. (1)** Subject to any enactment, Ordinance or Rules of Court, the forms of oath used in proceedings in the Supreme Court shall be the same, as nearly as may be, as those which are used in the Supreme Court of the State of New South Wales.

**(2)** Subject to any enactment, Ordinance or Rules of Court, a person who, by or under a law of the State of New South Wales, is entitled to make an affirmation instead of taking an oath may do so in a cause or matter in the Supreme Court.

**(3)** The form of affirmation shall, subject to any enactment, Ordinance or Rules of Court, be in accordance with the law of that State.

## **PART VII—MISCELLANEOUS**

### **Indictable offences**

**68. (1)** Subject to the next succeeding subsection, an indictable offence triable before the Supreme Court shall be prosecuted by information in the name of the Attorney-General or of such other person as the Attorney-General, by instrument in writing, appoints for the purposes of this subsection.

**(2)** The Attorney-General may file an information under the last preceding subsection without examination or commitment for trial of the accused person.

(3) Upon an information being filed without examination or commitment for trial, the Supreme Court or the Judge may—

- (a) cause a summons to be issued to the accused person to appear at the time and place specified in the summons and there to answer the charge specified in the information; or
- (b) issue a warrant for the arrest of the accused person and hold him in custody or admit him to bail.

(4) Where a person has been committed for trial upon a charge for an indictable offence triable before the Supreme Court, the information against the person may include, either in substitution for, or in addition to, a count charging the offence for which he was committed, a count founded on a fact or evidence disclosed in the course of the committal proceedings.

(5) The last preceding subsection does not authorize the inclusion of more than one count in the same information unless those counts are such as may lawfully be joined in the one information.

(6) Where a person is under commitment upon a charge of an indictable offence triable before the Supreme Court, the Attorney-General, or such other person as the Attorney-General, by instrument in writing, appoints for the purposes of this subsection, may decline to proceed further in the prosecution and, if the accused person is in custody, may, by warrant under his hand, direct the discharge of the accused person from custody, and the accused person shall be discharged accordingly.

### **Interest up to judgment**

**69. (1)** In any proceedings for the recovery of any money (including any debt or damages or the value of any goods) the Supreme Court or the Judge shall, upon application, unless good cause is shown to the contrary, either—

- (a) order that there be included in the sum for which judgment is given interest at such rate as the Court or the Judge, as the case may be, thinks fit on the whole or any part of the money for the whole or any part of the period between the date when the cause of action arose and the date as of which the judgment is entered; or
- (b) without proceeding to calculate interest in accordance with paragraph (a), order that there be included in the sum for which judgment is given a lump sum in lieu of any such interest.

(2) Subsection (1) does not—

- (a) authorize the giving of interest upon interest or of a sum in lieu of such interest;

- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of an agreement or otherwise; or
- (c) affect the damages recoverable for the dishonour of a bill of exchange.

(3) Where the sum for which judgment is given (in this subsection referred to as the “relevant sum”) includes, or where the Court or the Judge in its or his absolute discretion determines that the relevant sum includes, any amount for—

- (a) compensation in respect of liabilities incurred which do not carry interest as against the person claiming interest or claiming a sum in lieu of interest;
- (b) compensation for loss or damage to be incurred or suffered after the date on which judgment is given; or
- (c) exemplary or punitive damages,

interest, or a sum in lieu of interest, shall not be given under subsection (1) in respect of any such amount or in respect of so much of the relevant sum as in the opinion of the Court or the Judge represents any cash amount.

#### **Interest on judgments**

70. A judgment debt under a judgment of the Court carries interest at such rate as is fixed by the Rules of Court from the date as of which the judgment is entered.

#### **Security of the peace and for good behaviour**

71. A Judge, or, if three or more Judges are sitting together for the purpose of exercising jurisdiction of the Court that is exercisable by not less than three Judges, those Judges, shall have authority to hold to security of the peace and for good behaviour in matters arising under the laws of the Territory.

#### **Powers of Judge**

72. Where, by any law of the State of New South Wales which is continued in force in the Territory as a law of the Territory, any power or function is vested in the Supreme Court of New South Wales, or in a Judge of that Court, that power or function shall, in relation to the Territory, be vested in the Supreme Court or the Judge, as the case may be.

#### **Duty of receiver and manager**

73. When, in any cause pending in the Supreme Court, a receiver or manager appointed by the Court is in possession of any property, the receiver or manager shall manage and deal with the property according to the requirements of the laws of the State or part of the Commonwealth in which the property is

situated, in the same manner in which the owner or possessor thereof would be bound to do if in possession thereof.

**Liability and protection of receivers and managers**

**74.** A receiver or manager of any property appointed by the Supreme Court may, without the previous leave of the Court, be sued in respect of any act or transaction of his in carrying on the business connected with the property.

**Action by or against Sheriff etc.**

**75.** When the Sheriff or a Deputy Sheriff is a party to a cause in the Supreme Court, all writs, summonses, orders, warrants, precepts, process and commands in the cause which should in the ordinary course be directed to him shall be directed to such disinterested person as the Court or the Judge appoints; and the person so appointed may execute and return them.

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## NOTES

1. The *Supreme Court Act 1933* as shown in this reprint comprises Act No. 34, 1933 of the Commonwealth (as amended).

The *Australian Capital Territory (Self-Government) Act 1988* (No. 106, 1988) of the Commonwealth subsection 34 (2) and Schedule 2 allowed for the conversion of certain Commonwealth laws (including that first mentioned Act) to Territory enactments.

The *Australian Capital Territory Supreme Court Act 1933* of the Commonwealth was, in preparation for its conversion, amended by the *Supreme Court (Transfer) Act 1992* (No. 49, 1992) of the Commonwealth with effect from 1 July 1992 and, as so amended became a Territory enactment on that date. A Table showing new section numbers after renumbering by the lastmentioned Act is located after the Notes.

For the amendment history of the Australian Capital Territory Supreme Court Act of the Commonwealth see Commonwealth Acts Tables and Commonwealth Acts of the Parliament Volumes printed annually. A Table showing the amendment history as provided by the Commonwealth as at 1 July 1992 is located at the back of this reprint for the reader's convenience.

The *Supreme Court Act 1933* was also amended by the Self-Government (Transitional Provisions) Regulations as amended. The amendment is incorporated in this reprint.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most ACT laws so that after Self-Government day, or when they become Territory enactments they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

2. S. 20—The Supreme Court of the Australian Capital Territory has jurisdiction in the Australian Antarctic Territory and in Heard Island and McDonald Islands; see section 10 of the *Australian Antarctic Territory Act 1954* and section 9 of the *Heard Island and McDonald Islands Act 1953*.

## Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

| Provision   | How affected                                       |
|-------------|--|
| S. 37 ..... | am. Regulations 1990 No. 1 (as am. by No. 10,1993) |

TABLE SHOWING NEW SECTION NUMBERS OF THE SUPREME COURT ACT 1933 AFTER  
 RENUMBERING BY THE A.C.T. SUPREME COURT (TRANSFER) ACT 1992 (No. 49, 1992)  
 OF THE COMMONWEALTH

**NOTE—This Table does not form part of the *Supreme Court Act 1933* and is printed for  
 convenience of reference only.**

| Old number | New number | Old number | New number | Old number | New number |
|------------|------------|------------|------------|------------|------------|
| Section    | Section    | Section    | Section    | Section    | Section    |
| 5          | 2          | 20         | 28         | 37A        | 52         |
| 6          | 3          | 21         | 29         | 37B        | 53         |
| 7          | 4          | 22         | 30         | 38         | 54         |
| 7AA        | 5          | 23         | 31         | 39         | 55         |
| 7A         | 6          | 24         | 32         | 40         | 56         |
| 7B         | 7          | 25         | 33         | 41         | 57         |
| 8AAA       | 9          | 26         | 34         | 42         | 58         |
| 8AAB       | 10         | 27         | 35         | 43         | 59         |
| 8AA        | 11         | 28         | 36         | 44         | 60         |
| 8AABA      | 12         | 29         | 37         | 44A        | 61         |
| 8AB        | 13         | 30         | 38         | 45         | 62         |
| 8AC        | 14         | 31         | 39         | 46         | 63         |
| 8AD        | 15         | 32         | 40         | 47         | 64         |
| 8A         | 16         | 33         | 41         | 48         | 65         |
| 8B         | 17         | 33A        | 42         | 49         | 66         |
| 9          | 18         | 33C        | 43         | 50         | 67         |
| 10         | 19         | 33D        | 44         | 53         | 68         |
| 11         | 20         | 33F        | 45         | 53A        | 69         |
| 12         | 21         | 34         | 46         | 54         | 70         |
| 14         | 22         | 35         | 47         | 55         | 71         |
| 15         | 23         | 35AA       | 48         | 56         | 72         |
| 16         | 24         | 35A        | 49         | 57         | 73         |
| 17         | 25         | 36         | 50         | 58         | 74         |
| 18         | 26         | 37         | 51         | 59         | 75         |
| 19         | 27         |            |            |            |            |

## TABLE SHOWING SECTION HISTORY OF THE SUPREME COURT ACT 1933 AS PROVIDED BY THE COMMONWEALTH

The *Australian Capital Territory Supreme Court Act 1933* was modified by the A.C.T. Self-Government (Consequential Provisions) Regulations as amended. The modifications cease to have effect by the *A.C.T. Supreme Court (Transfer) Act 1992* and do not appear in the Table below.

**NOTE—This Table does not form part of the *Supreme Court Act 1933* and is printed for convenience of reference only.**

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

| Provision            | How affected  |
|----------------------|---|
| Title .....          | am. No. 98, 1971  |
| S. 1 .....           | am. No. 80, 1950; No. 49, 1992  |
| S. 2 .....           | rs. No. 51, 1959<br>am. No. 109, 1964<br>rep. No. 216, 1973   |
| S. 3 .....           | am. No. 216, 1973; No. 158, 1976; No. 61, 1981<br>rep. No. 49, 1992   |
| S. 4 .....           | rep. No. 216, 1973  |
| S. 5 .....           | am. No. 27, 1935; No. 57, 1945; No. 34, 1957; No. 43, 1958; No. 109, 1964;<br>No. 156, 1968; Nos. 13 and 98, 1971; No. 216, 1973; No. 158, 1976; No.<br>26, 1982; Nos. 38 and 109, 1988; No. 49, 1992 |
| S. 6 .....           | am. No. 43, 1958; Nos. 13 and 98, 1971; No. 158, 1976; No. 26, 1982   |
| S. 7 .....           | rs. No. 43, 1958<br>am. No. 156, 1968; Nos. 13 and 98, 1971; No. 216, 1973; No. 158, 1976; No.<br>26, 1982; No. 49, 1992  |
| S. 7AA .....         | ad. No. 109, 1988<br>rs. No. 49, 1992   |
| Ss. 7A, 7B .....     | ad. No. 158, 1976<br>am. No. 26, 1982   |
| S. 8 .....           | am. No. 57, 1945; No. 47, 1956<br>rs. No. 43, 1958<br>am. No. 156, 1968; No. 13, 1971<br>rs. No. 98, 1971<br>am. No. 158, 1976<br>rs. No. 38, 1988<br>am. No. 49, 1992                                |
| Ss. 8AAA, 8AAB ..... | ad. No. 38, 1988  |
| S. 8AA .....         | ad. No. 156, 1968<br>am. Nos. 13 and 98, 1971; No. 158, 1976<br>rs. No. 115, 1990   |
| S. 8AABA .....       | ad. No. 49, 1992  |
| S. 8AB .....         | ad. No. 98, 1971<br>am. No. 158, 1976   |
| S. 8AC .....         | ad. No. 98, 1971<br>am. No. 158, 1976; No. 38, 1988; No. 49, 1992   |
| S. 8AD .....         | ad. No. 38, 1988  |
| S. 8A .....          | ad. No. 57, 1945<br>rs. No. 34, 1957; No. 43, 1958; No. 109, 1964<br>am. No. 216, 1973; No. 49, 1992  |
| S. 8B .....          | ad. No. 57, 1945  |

## Table of Amendments—continued

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision                        | How affected  |
|----------------------------------|---|
|                                  | am. No. 52, 1947; No. 65, 1948; No. 51, 1950; No. 17, 1955; No. 43, 1958;<br>No. 110, 1960; No. 92, 1965; No. 93, 1966; No. 40, 1969; No. 13, 1971<br>rs. No. 158, 1976<br>am. No. 26, 1982; No. 49, 1992 |
| S. 9.....                        | am. No. 49, 1992  |
| S. 10 .....                      | am. No. 43, 1958; No. 158, 1976; No. 176, 1981 (as am. by No. 80, 1982);<br>No. 26, 1982; No. 49, 1992  |
| S. 11 .....                      | rs. No. 34, 1957<br>am. No. 158, 1976; No. 61, 1981; No. 109, 1988<br>rs. No. 49, 1992  |
| S. 12 .....                      | am. No. 34, 1957; No. 156, 1968; No. 109, 1988  |
| S. 13 .....                      | am. No. 156, 1968; No. 98, 1971<br>rep. No. 158, 1976   |
| S. 15 .....                      | am. No. 34, 1957; No. 109, 1988   |
| S. 16 .....                      | am. No. 80, 1950  |
| S. 17 .....                      | am. No. 158, 1976   |
| S. 20 .....                      | am. No. 34, 1957; No. 109, 1988   |
| S. 23 .....                      | am. No. 216, 1973   |
| S. 27 .....                      | rs. No. 34, 1957<br>am. No. 109, 1988   |
| S. 28 .....                      | am. No. 80, 1950; No. 34, 1957; No. 156, 1968; No. 98, 1971; No. 216, 1973;<br>No. 158, 1976; No. 3, 1978; No. 92, 1981; No. 26, 1982; No. 168, 1986;<br>Nos. 99 and 108, 1988; No. 49, 1992              |
| Part III (ss. 29-33) .....       | rep. No. 51, 1959   |
| S. 29 .....                      | rep. No. 51, 1959<br>ad. No. 3, 1978  |
| Part III (ss. 30-33,<br>33A-33F) | ad. No. 38, 1988  |
| S. 30 .....                      | rep. No. 51, 1959<br>ad. No. 38, 1988   |
| S. 31 .....                      | rep. No. 51, 1959<br>ad. No. 38, 1988<br>am. No. 109, 1988  |
| S. 32 .....                      | rep. No. 51, 1959<br>ad. No. 38, 1988<br>am. No. 49, 1992   |
| S. 33 .....                      | rep. No. 51, 1959<br>ad. No. 38, 1988   |
| S. 33A.....                      | ad. No. 38, 1988  |
| S. 33B.....                      | ad. No. 38, 1988<br>rep. No. 49, 1992   |
| S. 33C.....                      | ad. No. 38, 1988<br>am. No. 49, 1992  |
| S. 33D.....                      | ad. No. 38, 1988  |
| S. 33E.....                      | ad. No. 38, 1988<br>rep. No. 49, 1992   |
| S. 33F .....                     | ad. No. 38, 1988<br>am. No. 49, 1992  |

**Table of Amendments—continued**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision                 | How affected  |
|---------------------------|---|
| S. 34 .....               | am. No. 34, 1957<br>rs. No. 109, 1964<br>am. No. 98, 1971; No. 109, 1988          |
| S. 35 .....               | rs. No. 34, 1957<br>am. No. 156, 1968; No. 91, 1983; Nos. 38 and 109, 1988        |
| S. 35AA.....              | ad. No. 49, 1992  |
| S. 35A.....               | ad. No. 156, 1968<br>am. No. 38, 1988; No. 136, 1991                              |
| S. 37A.....               | ad. No. 109, 1964<br>am. No. 109, 1988  |
| S. 37B.....               | ad. No. 49, 1992  |
| S. 38 .....               | rs. No. 98, 1971<br>am. No. 109, 1988   |
| S. 39 .....               | am. No. 34, 1957<br>rs. No. 98, 1971  |
| S. 40 .....               | rs. No. 8, 1966   |
| S. 44A.....               | ad. No. 176, 1981   |
| S. 47 .....               | am. No. 98, 1971; No. 158, 1976; No. 26, 1982                                     |
| S. 50 .....               | am. No. 34, 1957; No. 49, 1992  |
| Part VI (ss. 51, 52)..... | rep. No. 158, 1976  |
| S. 51 .....               | am. No. 36, 1955; No. 34, 1957; No. 93, 1966; No. 156, 1968<br>rep. No. 158, 1976 |
| S. 52 .....               | rs. No. 109, 1964<br>rep. No. 158, 1976   |
| S. 53 .....               | rs. No. 34, 1957<br>am. No. 176, 1981; No. 114, 1983; No. 49, 1992                |
| S. 53A.....               | ad. No. 176, 1981   |
| S. 54 .....               | am. No. 93, 1966<br>rs. No. 158, 1976   |
| S. 55 .....               | am. No. 98, 1971; No. 216, 1973; No. 49, 1992                                     |
| S. 59 .....               | am. No. 109, 1964   |
| S. 60 .....               | rep. No. 216, 1973  |
| Heading to Schedules..... | rep. No. 65, 1985   |
| First Schedule.....       | rep. No. 80, 1950   |
| Second Schedule.....      | rep. No. 51, 1959   |

## Table of Acts

| Act   | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions                         |
|---|-----------------|----------------|--|--|
| <i>Seat of Government Supreme Court Act 1933</i>            | 34, 1933        | 9 Dec 1933     | 1 Jan 1934   |  |
| <i>Seat of Government Supreme Court Act 1935</i>            | 27, 1935        | 13 Apr 1935    | 13 Apr 1935  | —  |
| <i>Seat of Government Supreme Court Act 1945</i>            | 57, 1945        | 19 Oct 1945    | 19 Oct 1945  | —  |
| <i>Salaries (Statutory Offices) Adjustment Act 1947 (a)</i> | 52, 1947        | 1 Nov 1947     | 1 Nov 1947   | S. 2 (2)   |
| <i>Judges' Pensions Act 1948</i>                            | 65, 1948        | 9 Dec 1948     | 9 Dec 1948   | S. 14  |
| <i>Salaries (Statutory Offices) Adjustment Act 1950 (a)</i> | 51, 1950        | 14 Dec 1950    | 1 July 1950  | —  |
| <i>Statute Law Revision Act 1950</i>                        | 80, 1950        | 16 Dec 1950    | 31 Dec 1950  | Ss. 16 and 17  |
| <i>Judges' Remuneration Act 1955 (a)</i>                    | 17, 1955        | 9 June 1955    | 1 Jan 1955   | —  |
| <i>Australian Capital Territory Supreme Court Act 1955</i>  | 36, 1955        | 16 June 1955   | 14 July 1955   | —  |
| <i>Australian Capital Territory Supreme Court Act 1956</i>  | 47, 1956        | 30 June 1956   | 14 Aug 1956<br>(see s. 2 and<br><i>Gazette</i> 1956, p.<br>2489) | —  |
| <i>Australian Capital Territory Supreme Court Act 1957</i>  | 34, 1957        | 7 June 1957    | 5 July 1957  | S. 16  |
| <i>Australian Capital Territory Supreme Court Act 1958</i>  | 43, 1958        | 29 Sept 1958   | 29 Sept 1958   | —  |
| <i>Australian Capital Territory Supreme Court Act 1959</i>  | 51, 1959        | 22 May 1959    | 22 May 1959  | —  |
| <i>Judges' Remuneration Act 1960 (a)</i>                    | 110, 1960       | 16 Dec 1960    | 1 Oct 1960   | —  |
| <i>Australian Capital Territory Supreme Court Act 1964</i>  | 109, 1964       | 20 Nov 1964    | S. 5: 27 Oct<br>1960<br>Remainder:<br>Royal Assent               | Ss. 6 (2), (3)<br>and 8 (2)<br>S. 6 (4) (am.<br>by 216, 1973,<br>s. 3) |
| as amended by<br><i>Statute Law Revision Act 1973</i>       | 216, 1973       | 19 Dec 1973    | 31 Dec 1973  | Ss. 9 (1) and<br>10  |
| <i>Judges' Remuneration Act 1965 (a)</i>                    | 92, 1965        | 4 Dec 1965     | 1 July 1965  | —  |
| <i>Australian Capital Territory Supreme Court Act 1966</i>  | 8, 1966         | 3 May 1966     | 31 May 1966  | —  |
| <i>Statute Law Revision (Decimal Currency) Act 1966</i>     | 93, 1966        | 29 Oct 1966    | 1 Dec 1966   | —  |
| <i>Australian Capital Territory Supreme Court Act 1968</i>  | 156, 1968       | 10 Dec 1968    | 10 Dec 1968  | Ss. 4 (2) and<br>9 (2)   |
| <i>Judges' Remuneration Act 1969 (b)</i>                    | 40, 1969        | 14 June 1969   | 14 June 1969   | —  |
| <i>Australian Capital Territory Supreme Court Act 1971</i>  | 13, 1971        | 5 Apr 1971     | 5 Apr 1971   | S. 5 (2)   |

## Table of Acts—continued

| Act   | Number and year | Date of Assent | Date of commencement  | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Australian Capital Territory Supreme Court Act (No. 2) 1971</i>              | 98, 1971        | 17 Nov 1971    | 17 Nov 1971   | Ss. 6 (2), (3) and 11 (2)                      |
| <i>Statute Law Revision Act 1973</i>  | 216, 1973       | 19 Dec 1973    | 31 Dec 1973   | Ss. 9 (1) and 10                               |
| <i>Australian Capital Territory Supreme Court Amendment Act 1976</i>            | 158, 1976       | 9 Dec 1976     | Ss. 12 and 14:<br>1 Feb 1977 (see<br><i>Gazette</i> 1977,<br>No. S3)<br>Remainder:<br>Royal Assent  | Ss. 5 (2)-(4),<br>12 (2) and<br>15 (2)         |
| <i>Australian Capital Territory Supreme Court Amendment Act 1978</i>            | 3, 1978         | 20 Mar 1978    | 1 Apr 1980 (see<br><i>Gazette</i> 1980,<br>No. S65)   | —  |
| <i>Statute Law Revision Act 1981</i>  | 61, 1981        | 12 June 1981   | S. 115: (b)   | —  |
| as amended by<br><i>Statute Law (Miscellaneous Amendments) Act (No. 1) 1982</i> | 26, 1982        | 7 May 1982     | S. 216: 4 June 1982 (c)<br>S. 217: (c)  | —  |
| <i>Companies (Miscellaneous Amendments) Act 1981</i>                            | 92, 1981        | 18 June 1981   | Part I (ss. 1 and 2): Royal Assent<br>Div. 1 of Part XI (s. 36): 1 July 1981 (see s. 2 (2) and <i>Gazette</i> 1981, No. S118)<br>Remainder:<br>1 July 1982 (see s. 2 (3) and <i>Gazette</i> 1982, No. S124) | —  |
| <i>Statute Law (Miscellaneous Amendments) Act 1981</i>                          | 176, 1981       | 2 Dec 1981     | Part VI (ss. 13-17): 30 Dec 1981 (d)  | Ss. 16 (2) and 17 (2)                          |
| as amended by<br><i>Statute Law (Miscellaneous Amendments) Act (No. 1) 1982</i> | 80, 1982        | 22 Sept 1982   | Part LXX (ss. 260 and 261): (e)<br>Part VIII (ss. 59-69): (f)   | —  |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1983</i>                  | 91, 1983        | 22 Nov 1983    | S. 3: 1 Jan 1934 (g)  | S. 69<br>Ss. 2 (14) and 6 (1)                  |

## Table of Acts—continued

| Act  | Number and year | Date of Assent | Date of commencement  | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>Director of Public Prosecutions (Consequential Amendments) Act 1983</i>             | 114, 1983       | 14 Dec 1983    | S. 8 (1): 16 Dec 1985 (see s. 2 (2))<br>S. 8 (2): 16 Dec 1985 (see s. 2 (3))<br>Remainder: 5 Mar 1984 (see s. 2 (1) and <i>Gazette</i> 1984, No. S55) | —  |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>                         | 65, 1985        | 5 June 1985    | S. 3: 3 July 1985 (h)   | —  |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1986</i>                         | 168, 1986       | 18 Dec 1986    | S. 3: (j)   | S. 5 (1)                                       |
| <i>Statute Law (Miscellaneous Provisions) Act 1988</i>                                 | 38, 1988        | 3 June 1988    | S. 3: 9 Nov 1988 (see <i>Gazette</i> 1988, No. S348) (k)  | S. 5 (1)                                       |
| <i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i> | 99, 1988        | 2 Dec 1988     | 2 Dec 1988  | —  |
| <i>A.C.T. Self-Government (Consequential Provisions) Act 1988</i>                      | 109, 1988       | 6 Dec 1988     | S. 32: 11 May 1989 (see <i>Gazette</i> 1989, No. S164) (l)  | —  |
| <i>Law and Justice Legislation Amendment Act 1990</i>                                  | 115, 1990       | 21 Dec 1990    | Ss. 3-39: 21 June 1991<br>Remainder: 21 Dec 1990  | —  |
| <i>Law and Justice Legislation Amendment Act 1991</i>                                  | 136, 1991       | 12 Sept 1991   | Schedule: 10 Oct 1991 (m)   | S. 3 (1)                                       |
| <i>A.C.T. Supreme Court (Transfer) Act 1992</i>  | 49, 1992        | 17 June 1992   | 1 July 1992   | S. 14 (5)                                      |

**Notes**—continued

- (a) The *Salaries (Statutory Offices) Adjustment Act 1947*, the *Salaries (Statutory Offices) Adjustment Act 1950*, the *Judges' Remuneration Act 1955*, the *Judges' Remuneration Act 1960*, the *Judges' Remuneration Act 1965* and the *Judges' Remuneration Act 1969* were repealed by section 7 of the *Statute Law Revision Act 1973*. That section provides that the repeals do not affect the operation of any amendment made by a repealed Act or any provision made by it for the citation of an Act as so amended.
- (b) The *Australian Capital Territory Supreme Court Act 1933* was amended by section 115 only of the *Statute Law Revision Act 1981*, subsection 2 (1) of which provides as follows:  
 “(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.”
- (c) The *Statute Law Revision Act 1981* was amended by sections 216 and 217 only of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*, subsections 2 (11) and (12) of which provide as follows:  
 “(11) Section 217 shall be deemed to have come into operation on 12 June 1981.  
 “(12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.”
- (d) The *Australian Capital Territory Supreme Court Act 1933* was amended by Part VI (sections 13-17) only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsection 2 (12) of which provides as follows:  
 “(12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.”
- (e) The *Statute Law (Miscellaneous Amendments) Act 1981* was amended by Part LXX (sections 260 and 261) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2 (14) of which provides as follows:  
 “(14) Part LXX shall be deemed to have come into operation on 30 December 1981.”
- (f) The *Australian Capital Territory Supreme Court Act 1933* was amended by Part VIII (sections 59-69) only of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*, subsection 2 (1) of which provides as follows:  
 “(1) Sections 1 and 2 and Parts VIII and XXXIV shall come into operation on the day on which this Act receives the Royal Assent.”
- (g) The *Australian Capital Territory Supreme Court Act 1933* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1983*, subsection 2 (4) of which provides as follows:  
 “(4) The amendment of section 35 of the *Australian Capital Territory Supreme Court Act 1933* made by this Act shall be deemed to have come into operation on the commencement of that section.”
- (h) The *Australian Capital Territory Supreme Court Act 1933* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2 (1) of which provides as follows:  
 “(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.”
- (j) The *Australian Capital Territory Supreme Court Act 1933* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsection 2 (1) of which provides as follows:  
 “(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.”

**Notes**—continued

- (k) The *Australian Capital Territory Supreme Court Act 1933* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1988*, subsection 2 (3) of which provides as follows:
- “(3) The amendments of the *Australian Capital Territory Supreme Court Act 1933* made by this Act commence on a day or days to be fixed by Proclamation for the purposes of this subsection.”
- (l) The *Australian Capital Territory Supreme Court Act 1933* was amended by section 32 only of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, subsection 2 (3) of which provides as follows:
- “(3) The remaining provisions of this Act (including the amendments made by Schedule 5) commence on a day or days to be fixed by Proclamation.”
- (m) The *Australian Capital Territory Supreme Court Act 1933* was amended by the Schedule only of the *Law and Justice Legislation Amendment Act 1991*, subsection 2 (1) of which provides as follows:
- “(1) Subject to this section, this Act commences on the 28th day after the day on which it receives the Royal Assent.”

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