



Australian Capital Territory

Supreme Court Act 1933

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About this republication

The republished law

This is a republication of the *Supreme Court Act 1933* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 23 June 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 23 June 2016.

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

Kinds of republications

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- authorised republications to which the *Legislation Act 2001* applies
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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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



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 1 Preliminary

1 Name of Act

This Act is the *Supreme Court Act 1933*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary defines certain words and expressions, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition ‘*entitlements*, for part 2B (Remuneration, allowances and other entitlements of judges)—see section 37T.’ means that the expression *entitlements* is defined in section 37T, and the definition applies to part 2B.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act 2001](#), s 155 and s 156).

2A Notes

A note included in this Act is explanatory and is not part of the Act.

Note See [Legislation Act 2001](#), s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Constitution and jurisdiction of the Supreme Court

3 Establishment

- (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 the other judges.

4 Resident judges

- (1) The Executive may by commission appoint, as resident judges, a Chief Justice of the court and other judges of the court.
- (2) A person is not eligible to be appointed as a resident judge—
 - (a) unless he or she—
 - (i) is or has been a judge of a superior court of record of the Commonwealth or a State, or has been a judge of the Supreme Court; or
 - (ii) has been a legal practitioner for not less than 5 years; or
 - (b) if he or she has attained the age of 70 years.
- (3) A resident judge ceases to hold office on attaining the age of 70 years.
- (4) A resident judge may resign by written notice to the Attorney-General.

4AA Requirements of appointment—resident judges

- (1) The Executive must, in relation to the appointment of resident judges, determine—
 - (a) the criteria that apply to the selection of a person for appointment; and
 - (b) the process for selecting the person.
- (2) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

4A Additional judges

- (1) The Executive may, by commission, appoint a judge or judges of a superior court of record of the Commonwealth or a State as an additional judge or additional judges of the court.
- (2) An additional judge ceases to hold office on ceasing to hold office as a judge (other than as an additional judge) of a superior court of record of the Commonwealth or a State.
- (3) An additional judge may resign by written notice to the Attorney-General.

4B Acting judges

- (1) The Executive may, by commission, appoint persons to be acting judges of the court.
- (2) An appointment under subsection (1) shall be for the period, not longer than 12 months, specified in the commission.
- (3) A person is not eligible to be appointed under subsection (1) unless he or she—
 - (a) has been a judge of a superior court of record of the Commonwealth or a State, or has been a judge of the Supreme Court; or

(b) has been a legal practitioner for not less than 5 years.

5 Seniority of judges

- (1) The Chief Justice is the senior judge of the court.
- (2) The resident judges are senior to the additional judges and the acting judges.
- (3) The additional judges are senior to the acting judges.
- (4) The resident judges (other than the Chief Justice) have seniority as between themselves—
 - (a) according to the dates their respective 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 respective commissions.
- (5) The additional judges have seniority as between themselves—
 - (a) according to the dates their respective 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 respective commissions.
- (6) The acting judges have seniority as between themselves—
 - (a) according to the dates their respective 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 respective commissions.

6 Acting Chief Justice

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 is to act as Chief Justice.

7 Arrangement of business of court

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.

8 Exercise of jurisdiction

- (1) The jurisdiction of the court is exercisable by a single judge, except—
 - (a) when exercised by the associate judge under the rules (see section 9); or
 - (b) when exercised by the registrar under the rules (see section 10); or
 - (c) when exercised by a Full Court under section 11 or 13; or
 - (d) when exercised by the Court of Appeal under part 2A.
- (2) The rules may provide for the jurisdiction of the court otherwise exercisable by a single judge to be exercised—
 - (a) by the associate judge, in the cases and subject to the conditions prescribed under the rules; or

(b) by the registrar, in the cases and subject to the conditions prescribed under the rules.

(3) In this section:

registrar includes a deputy registrar.

9 Exercise of jurisdiction by associate judge

(1) For the exercise of jurisdiction given to the associate judge under the rules, this Act has effect as if the court consisted of the judges and the associate judge.

(2) A person who is dissatisfied with an order of the associate judge made in the exercise of jurisdiction given under the rules may appeal as prescribed under the rules to the Court of Appeal.

10 Exercise of jurisdiction by registrar

(1) For the purposes of the exercise of jurisdiction given to the registrar under the rules, this Act has effect as if the court consisted of the judges and the registrar.

(2) In this section:

registrar includes a deputy registrar.

11 Exercise of jurisdiction—legal practitioners

(1) The jurisdiction of the court in an application for admission to the legal profession must be exercised by a Full Court unless the Chief Justice directs otherwise.

(2) The jurisdiction of the court in a proceeding in relation to the grant, renewal, amendment, suspension or cancellation of a practising certificate under the *Legal Profession Act 2006* must be exercised by a Full Court.

- (3) The jurisdiction of the court in relation to an application under the *Legal Profession Act 2006*, section 96 or section 97 in relation to the removal of a lawyer's name from the local roll must be exercised by a Full Court.
- (4) Nothing in this section prevents a single judge, in proceedings referred to in subsection (2) or (3), from—
 - (a) making any findings of fact; or
 - (b) giving directions of an interlocutory kind.
- (5) A single judge who has heard any part of proceedings referred to in subsection (3) for the purpose of making any findings of fact may be 1 of the judges who exercise the jurisdiction of the court in those proceedings under that subsection.

13 Power of judge to order that jurisdiction in a matter be exercised by Full Court

- (1) This section applies in relation to matters in which, apart from this section, the jurisdiction of the court would be exercisable by a single judge.
- (2) At any time before the beginning of the hearing of a matter in relation to which this section applies, a judge may order that the jurisdiction of the court in that matter shall be exercised by the Full Court.
- (3) At any time after the beginning 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 court in that matter shall be exercised by the Full Court.
- (4) If an order has been made under subsection (2) or (3) in relation to a matter—
 - (a) the jurisdiction of the court in the matter must, subject to the rules, be exercised by the Full Court; and

- (b) the court may give the directions it considers appropriate about the procedure to be followed in the further conduct of the proceeding, including directions about the use (if any) of any evidence received before the making of the order.

14 Full Court decisions—equal division of opinion

If the Full Court is 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) if an order of the associate judge is called in question—the order is confirmed; and
- (b) in any other case—the opinion of the senior judge sitting prevails.

16 Holding other judicial offices

- (1) Subject to this section, a judge may also hold office as a judge of a superior court of record of the Commonwealth, a State or another Territory, whether appointed to that office before or after his or her appointment as a judge of the Supreme Court.
- (2) A resident judge or acting judge is not, without the written approval of the Executive, entitled to—
 - (a) engage in remunerative employment otherwise than in connection with the duties of judicial office or any office, appointment or commission held by him or her in the Defence Force of the Commonwealth; or
 - (b) accept appointment to another judicial office or to an office under a law of the Territory, the Commonwealth, a State or another Territory.
- (3) The Executive shall consult with the Chief Justice before giving the approval.

18 Principal seat of court and sittings

- (1) The court may sit at Canberra, and at any other places in Australia that are from time to time determined by the Chief Justice.
- (2) The times of the sittings of the court shall be such as are from time to time specified under the rules.
- (3) The offices of the court shall be at Canberra.

19 Oath or affirmation of office—judges

Before exercising the functions of office, a judge shall take or make—

- (a) an oath or affirmation in accordance with schedule 1, part 1.1;
or
- (b) an oath or affirmation in accordance with schedule 1, part 1.2;
before another judge, a justice of the High Court or a judge of the Federal Court.

20 Jurisdiction and powers of Supreme Court

- (1) The 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 court is not bound to exercise its powers if it has concurrent jurisdiction with another court or tribunal.

22 No trial by jury in civil proceedings

In every suit in the court, the trial must be by the court without a jury.

25 Law and equity to be concurrently administered

Subject to the express provisions of any other Act, in every civil cause or matter begun in the court law and equity shall be administered according to sections 26 to 34B.

26 Equities of plaintiff

In proceedings in the court, the plaintiff is entitled to equitable relief if, in pre-Judicature Act proceedings of the same type, the plaintiff would have been entitled to such relief.

27 Equities of defendant

In proceedings in the court, the defendant is entitled to rely on an equitable defence, or is entitled to equitable relief of any sort, against any claim (whether at law or in equity) if, in pre-Judicature Act proceedings of the same type, the defendant would have been entitled to rely on such a defence, or would have been entitled to such relief, as the case may be.

29 Incidental equities

In proceedings in the court, the parties are entitled to such incidental equitable rights, and subject to such incidental equitable duties, as they would have been entitled or subject to in pre-Judicature Act proceedings of the same type.

30 Defence or stay of proceeding instead of prohibition order or injunction

- (1) A proceeding in the court must not be restrained by a prohibition order or injunction.
- (2) A defence is available in a proceeding in the court if an injunction would previously have been available in a pre-Judicature Act proceeding of the same kind.

- (3) However, this section does not prevent the court from ordering a stay in a proceeding in the court.
- (4) The court may grant a stay in a proceeding in the court on application by an entitled person.
- (5) In this section:

entitled person, in relation to a proceeding in the court, means a person (whether or not the person is a party to the proceeding) who would have been entitled, in relation to a pre-Judicature Act proceeding of the same kind—

- (a) to apply to a court to restrain the prosecution of the proceeding; or
- (b) to enforce any order or rule in contravention of which all or part of the proceeding had been taken.

31 Common law and statute

The court shall give effect to all claims for relief arising under the common law or the statute law of the Territory, subject to any equitable rules applicable under this Act.

32 Final determination of matters

- (1) In the exercise of its jurisdiction under this Act in relation to proceedings in the court, the court shall, so far as practicable, ensure that—
 - (a) all the matters in issue between the parties to the proceedings are finally determined; and
 - (b) all multiplicity of legal proceedings concerning those matters is avoided.
- (2) For subsection (1), the court may grant legal or equitable relief absolutely or conditionally.

33 Law and equity

Subject to this Act, in any matter arising in the court, if there is a conflict between the rules of equity and the rules of law with reference to that matter, the rules of equity prevail.

34 Equitable damages

If the court has power to grant an injunction or an order for specific performance, the court may give damages in addition to, or in substitution for, the injunction or specific performance.

34B Habeas corpus and prerogative orders

(1) The Supreme Court has power to grant any relief by way of a habeas corpus order or prerogative order.

(2) In this section:

habeas corpus order means an order the relief under which is in the nature of, and to the same effect as, relief by way of a writ of habeas corpus.

prerogative order means an order the relief under which is in the nature of, and to the same effect as, relief by way of—

- (a) a writ of mandamus, prohibition or certiorari; or
- (b) an information in the nature of *quo warranto*.

relief includes remedy.

Part 2A Court of Appeal

37E Appellate jurisdiction

- (1) When exercising its appellate jurisdiction under this part, the court is to be known as the Court of Appeal.
- (2) The following matters may be brought before, and heard by, the Court of Appeal:
 - (a) appeals in relation to orders of the court (except orders of the registrar, the Full Court exercising appellate jurisdiction or the Court of Appeal itself);
 - (b) appeals under section 37S (Reference appeal in relation to proceeding);
 - (c) cases stated or questions reserved by the court about any matter in relation to which an appeal may be brought to the Court of Appeal;
 - (d) applications under part 8AA (Acquittals).
- (3) However, an appeal may not be brought against an order made by the court sitting as the Court of Disputed Elections under the *Electoral Act 1992*, section 252.
- (4) Also, an appeal may be brought against an interlocutory order of the court constituted by a single judge, or the associate judge, only with leave of the Court of Appeal.
- (5) In this section:
registrar includes a deputy registrar.

37H Appeal bench

- (1) The Court of Appeal is constituted by 3 judges, except under the following provisions:
 - section 37J (Appeal court constituted by single judge)

- section 37L (Appeal judge unable to continue sitting)
 - section 37O (4) (which provides for the enforcement of an order).
- (2) At least 1 of the judges sitting on the Court of Appeal must be a resident judge, unless the Chief Justice considers it impracticable for the Court of Appeal to be so constituted.
- (3) A judge must not sit on an appeal from an order made by the judge.

37I Presiding judge

The presiding judge of the Court of Appeal for the hearing of an appeal is the most senior judge sitting on the appeal.

37J Appeal court constituted by single judge

- (1) The Court of Appeal may be constituted by a single judge for hearing and deciding any of the following matters (*incidental matters*) in relation to an appeal:
- (a) leave or special leave to appeal;
 - (b) extension of time to institute an appeal;
 - (c) leave to amend the grounds of an appeal;
 - (d) amendment or stay of an order of the court from which the appeal is brought;
 - (e) suspension of the operation of an order to which the appeal relates;
 - (f) including, removing or substituting a party;
 - (g) a consent order disposing of the appeal (including an order for costs);
 - (h) dismissal of an appeal or other proceeding for want of prosecution or for any other reason prescribed under the rules;

- (i) dismissal of an appeal or other proceeding on the application of the appellant or other applicant;
 - (j) directions about the conduct of the appeal (including directions about use of written submissions and limiting time for oral argument);
 - (k) any other question of practice and procedure in the Court of Appeal;
 - (l) costs and other matters incidental to a matter mentioned in paragraphs (a) to (k).
- (2) The rules may provide for incidental matters to be dealt with without an oral hearing, subject to any conditions prescribed under the rules.
- (3) The rules may provide that the jurisdiction and powers of the Court of Appeal may be exercised by a single judge in particular kinds of proceedings.

37K Decision-making

The Court of Appeal must make its decision on an appeal in accordance with the opinion of the majority of the judges sitting on the appeal, unless section 37L (3) applies.

37L Appeal judge unable to continue sitting

- (1) If, before a proceeding on an appeal is decided, 1 of the judges becomes unable to continue to sit on the appeal, the proceedings may continue before the appeal court constituted by the 2 remaining judges, if the parties agree.

Note If a judge's term of office ends before the proceeding is decided, this section does not apply (unless the judge is removed from office, or is otherwise unable to continue to sit on the appeal). Section 60A provides that, in this circumstance, the judge continues to hold office for the purpose of the proceeding, and may continue to exercise the jurisdiction of the Court of Appeal for that purpose.

- (2) If the parties do not agree to the continuation of the proceeding before the 2 remaining judges, the appeal must be reheard and decided by the Court of Appeal constituted by 3 judges ((including, if practicable, the 2 remaining judges)).
- (3) If the parties agree to the continuation of proceedings before the 2 remaining judges, and the remaining judges are divided in opinion—
 - (a) if they are divided in opinion about the decision on the appeal—the appeal must be reheard and decided by the Court of Appeal constituted by 3 judges (including, if practicable, the 2 remaining judges); or
 - (b) if they are divided in opinion about any other issue—the decision of the court is the decision of the most senior of the remaining judges.

37M Reserved judgments

- (1) If judgment is reserved in a proceeding before the Court of Appeal after a full hearing, the judgment of the court (including the judgment of 1 or more of the judges sitting on the court) may later be delivered, orally or in writing, by any of the sitting judges.
- (2) It is not necessary for the other judges sitting on the Court of Appeal in the proceeding to be present when judgment is delivered.

37N Evidence on appeal

- (1) The Court of Appeal must have regard to the evidence given in the proceeding out of which the appeal arose.
- (2) The Court of Appeal may draw inferences of fact from that evidence.
- (3) The Court of Appeal may receive further evidence in any of the following ways:
 - (a) by oral examination before the court or a judge;

- (b) on affidavit;
 - (c) by audiovisual link or audio link;
 - (d) any other way the court may receive evidence.
- (4) In this section:

audio link—see the *Evidence (Miscellaneous Provisions) Act 1991*, section 16 (Definitions—ch 3).

audiovisual link—see the *Evidence (Miscellaneous Provisions) Act 1991*, dictionary.

37O Orders on appeal

- (1) The Court of Appeal has the following powers in relation to the order appealed from:
- (a) to confirm, reverse or amend the order;
 - (b) to give any order it considers appropriate, or refuse to give an order applied for;
 - (c) to set aside the order (completely or in part) and remit the proceeding to the court constituted by a single judge for further hearing and decision, subject to any directions the Court of Appeal considers appropriate;
 - (d) to set aside the verdict and order in a trial on indictment and order a verdict of not guilty (or another verdict) to be entered;
 - (e) to order a new trial, with or without jury, on any appropriate ground;
 - (f) to award enforcement of any order, or remit the proceeding to the court constituted by a single judge for enforcement of the order.

- (2) The Court of Appeal on an appeal against conviction must—
- (a) allow the appeal if it considers that—
 - (i) the verdict of the jury should be set aside on the ground that it is unreasonable, or cannot be supported, having regard to the evidence; or
 - (ii) the judgment of the court before which the appellant was convicted should be set aside on the ground of a wrong decision of any question of law; or
 - (iii) on any other ground there was a miscarriage of justice; or
 - (b) dismiss the appeal.
- (3) However, the Court of Appeal may also dismiss an appeal against conviction if it considers that—
- (a) the point raised by the appeal might be decided in favour of the appellant; but
 - (b) no substantial miscarriage of justice has actually occurred.
- (4) If a judgment of the Court of Appeal is remitted for execution under subsection (1) (f), the court constituted by a single judge must execute the judgment of the Court of Appeal as if it were that judge's own judgment.
- (5) The Court of Appeal may exercise powers under subsection (1) in relation to the order appealed from—
- (a) despite any application in the notice of appeal that part only of the order be reversed or amended; and
 - (b) in favour of all or any of the respondents or other parties, including any who have not appealed from or complained of the order.
- (6) An interlocutory order from which there has been no appeal does not prevent the Court of Appeal from making any order on the appeal it considers just.

- (7) In a criminal matter, the powers of the Court of Appeal in an appeal against sentence (whether by the prosecution or defendant) include the following powers:
- (a) to increase or decrease the sentence;
 - (b) to substitute a different sentence.

37P New trials

If the Court of Appeal orders a new trial, the court may, by the order, do any or all of the following in relation to the new trial:

- (a) order that the new trial be conducted generally, or on particular issues;
- (b) impose any conditions that it considers appropriate;
- (c) direct any admissions by a party that it considers appropriate;
- (d) order that the testimony of a witness examined at the original trial be used in the new trial in the way stated in the order.

37Q Bail time on appeal does not count towards sentence

If a person who has been convicted and sentenced to a term of imprisonment appeals to the Court of Appeal (against the conviction, or sentence, or both), any time spent while released on bail pending the decision on the appeal does not count as part of the term of imprisonment.

37S Reference appeal in relation to proceeding

- (1) This section applies if a person has been charged on indictment in the court and the proceeding in relation to all or any part of the indictment has concluded.

Note **Indictment** includes information (see [Legislation Act](#), dict, pt 1).

- (2) The Court of Appeal may, on application by the Attorney-General, solicitor-general or the director of public prosecutions (the *applicant*), hear and decide (by a *reference appeal*) any question of law arising at or in relation to the proceeding.
- (3) An application must be made within 6 weeks after the end of the proceeding, or within any longer period allowed by the Court of Appeal.
- (4) Either or both of the following people (an *interested party*) may be heard in the reference appeal:
 - (a) a person charged in the proceeding;
 - (b) a person affected by any decision in the proceeding.
- (5) If an interested party is not represented in the appeal, the applicant must instruct counsel to argue the reference appeal on the party's behalf.
- (6) The decision on the reference appeal does not invalidate or affect any verdict or decision given in the proceeding.

Part 2B Remuneration, allowances and other entitlements of judges

37T **Meaning of *entitlements***

In this part:

entitlements means a benefit other than remuneration or allowances.

37U **Resident judges**

- (1) This section applies to a person (other than a person to whom the *A.C.T. Self-Government (Consequential Provisions) Act 1988* (Cwlth), section 29A (2) applies) who is appointed as a resident judge.
- (2) A person to whom this section applies is entitled to the same remuneration, allowances and entitlements as a judge of the Federal Court is entitled to from time to time.
- (3) However, subsection (2) is subject to the following provisions:
 - (a) subsections (4) to (6);
 - (b) section 37UA (Indemnity for superannuation surcharge levy);
 - (c) section 37UB (Salary of former President).
- (4) For subsection (2), the *Judges' Pensions Act 1968* (Cwlth) and the *Judges (Long Leave Payments) Act 1979* (Cwlth) apply in relation to a person to whom this section applies, to the extent to which they are capable of being applied, as if—
 - (a) those Acts were territory laws; and
 - (b) the person had been a judge of the Federal Court immediately before the person died or retired, had been appointed to that court when appointed as a resident judge and had served as a judge of that court for a period equal to the period of the person's service as a resident judge; and

- (c) the *Judges' Pensions Act 1968* (Cwlth), section 6A applied to the person, and section 6B did not apply to the person, whether or not the person's surcharge debt account (if any) is in debit when a pension becomes payable to the person; and
- (d) a reference to the Attorney-General of the Commonwealth were a reference to the Attorney-General; and
- (e) a reference to the Governor-General of the Commonwealth were a reference to the Executive; and
- (f) a reference to the Constitution, section 72 were a reference to the *Judicial Commissions Act 1994*, section 5; and
- (g) a reference to the Consolidated Revenue Fund were a reference to the public money of the Territory; and
- (h) a reference to the administrative appeals tribunal of the Commonwealth were a reference to the ACAT; and
- (i) a reference in the *Judges' Pensions Act 1968* (Cwlth) to a **marital relationship** included a reference to a relationship between 2 people of the same sex, subject otherwise to that Act, section 4AB (Marital relationship); and
- (j) a reference in the *Judges (Long Leave Payments) Act 1979* (Cwlth) to a **widow or widower** of a judge who has died included a reference to anyone else who was the domestic partner of the judge when the judge died; and
- (k) all other necessary changes, and any changes prescribed by regulation, were made.

Note 1 A reference to a Cwlth Act includes a reference to the Act as originally made and as amended (see [Legislation Act](#), s 102).

Note 2 For the meaning of **domestic partner**, see the [Legislation Act](#), s 169.

- (5) To remove any doubt, for the application of the *Judges' Pensions Act 1968* (Cwlth) to a person to whom this section applies, a reference in that Act to the *appropriate current judicial salary* in relation to the person is—
- (a) for a person who was Chief Justice—a reference to salary at the rate that would be payable to the person as Chief Justice if the person had not died or retired; and
 - (b) for a person who was President—a reference to salary at the rate that would be payable to the person as President if the person had not died or retired; and
 - (c) for a person who was appointed to an office that has been abolished—a reference to the amount determined by the Minister to be reasonable having regard to the rate of salary payable—
 - (i) for the office before it was abolished; and
 - (ii) for other offices under this part.
- (6) For subsection (5), *salary* includes salary (however described) payable under a determination of the remuneration tribunal.
- (7) A determination made under subsection (5) (c)—
- (a) is a notifiable instrument; and
 - (b) for the first determination made in relation to the holder of the abolished office—takes effect on, unless otherwise stated in the determination, the day immediately after the office is abolished.

Note A notifiable instrument must be notified under the [Legislation Act](#).

37UA Indemnity for superannuation surcharge levy

- (1) This section applies if—
 - (a) a judge or other person is entitled to be paid a pension under this Act; and
 - (b) the commissioner of taxation has notified the judge or other person that the judge or other person is liable to pay the amount of superannuation contributions surcharge stated in the notice; and
 - (c) the superannuation contributions surcharge relates to surchargeable contributions made in relation to the judge.
- (2) The Territory must indemnify the judge or other person against the liability to pay the amount stated in the notice.
- (3) The public money of the Territory is appropriated to the extent necessary for payment of the amount indemnified.
- (4) A term used in this section that is defined in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cwlth) has the same meaning in this section.

37V Entitlements of acting judges

An acting judge is entitled to the same entitlements, other than in relation to leave or pension, as a judge.

37W Dual appointments

- (1) In this section:
superior court office, in relation to a judge of the court who holds office as a judge of a superior court of record of the Commonwealth, a State or another Territory, means the office of judge of that superior court of record.

- (2) Subject to subsections (3) and (4), a judge is not entitled to remuneration, allowances or entitlements if the judge—
- (a) concurrently holds a superior court office; and
 - (b) is entitled to remuneration, allowances or entitlements (as the case requires) in relation to the superior court office.
- (3) If the amount of remuneration or allowances to which a judge would be entitled as a judge of the court if subsection (2) did not apply exceeds the remuneration or allowances (as the case may be) to which he or she is entitled in relation to his or her superior court office, the judge is entitled to receive an additional amount equal to that excess.
- (4) If the entitlements to which a judge would be entitled as a judge of the court if subsection (2) did not apply—
- (a) are of a type not provided for in relation to his or her superior court office; or
 - (b) are of a better quality than those provided for in relation to his or her superior court office;
- the judge is entitled to receive entitlements of that type or quality.
- (5) This section does not apply to an acting judge of the court.

37X Accrual and appropriation

- (1) The remuneration and allowances to which a judge is entitled accrue from day-to-day.
- (2) The public money of the Territory is appropriated to the extent necessary for payment to judges of remuneration and allowances.

Part 3 The master

38 The master

There shall be a Master of the court.

39 Functions of master

The master has power to administer oaths and may exercise the other functions given to the master under this Act, another Territory law or a special order of the court.

40 Appointment of master

- (1) The master shall be appointed by the Executive.

Note For the making of appointments (including acting appointments), see [Legislation Act 2001](#), pt 19.3.

- (2) A person shall not be appointed as the master unless the person has been a legal practitioner for not less than 5 years.
- (3) A person who is 70 years old or older must not be appointed as the master.

40A Requirements of appointment—master

- (1) The Executive must, in relation to the appointment of the master, determine—
- (a) the criteria that apply to the selection of a person for appointment; and
- (b) the process for selecting the person.
- (2) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

41 Term of appointment of master

- (1) The master must be appointed either—
 - (a) for a term of not longer than 7 years; or
 - (b) until the master turns 70 years old.
- (2) A term mentioned in subsection (1) (a) must not end after the master turns 70 years old.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of *appoint*).

41A Extension of master's term of appointment

- (1) The Executive may, in writing, extend the term of the master's appointment for a stated period.
- (2) An extension must be made before the term of appointment (including that term as previously extended) ends.
- (3) The period of an extension must not end after the master turns 70 years old.
- (4) In this section:
extend includes further extend.

41B Conditions of appointment generally

The master holds the position on the conditions not provided for by this Act or any other Territory law that are decided by the Executive.

41C Holding other offices

- (1) The master is not, without the written approval of the Executive, entitled to—
 - (a) engage in remunerative employment otherwise than in connection with the duties of office as a master or any office, appointment or commission held by him or her in the Defence Force of the Commonwealth; or
 - (b) accept appointment to another office under a law of the Territory, the Commonwealth, a State or another Territory.
- (2) The Executive shall consult with the Chief Justice before giving the approval.

42 Oath or affirmation of office—master

Before exercising the functions of office, the master shall take or make—

- (a) an oath or affirmation in accordance with schedule 1, part 1.1; or
- (b) an oath or affirmation in accordance with schedule 1, part 1.2; before a judge.

43 Resignation

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

44 Retirement

- (1) This section applies if the master is—
 - (a) an eligible employee for the *Superannuation Act 1976* (Cwlth); or
 - (b) a member of the Superannuation Scheme for the *Superannuation Act 1976* (Cwlth); or

- (c) a member of any other superannuation scheme determined by the Attorney-General.
- (2) The Executive may retire the master on the ground of invalidity with the master's consent.
- (3) A determination under subsection (1) (c) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

45 Master to be known as associate judge

The Master is to be known as the Associate Judge.

Part 4 Officers

46 Appointment

- (1) There shall be—
 - (a) a registrar of the court, and such deputy registrars and other officers of the court as are necessary; and
 - (b) a sheriff of the Territory and such deputy sheriffs of the Territory as are necessary.

Note 1 For the making of appointments (including acting appointments), see [Legislation Act 2001](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act 2001](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act 2001](#), div 19.3.3).

- (2) The registrar and the sheriff shall be appointed by the Attorney-General.
- (3) The deputy registrars and the other officers referred to in subsection (1) (a) shall be appointed by the registrar.
- (4) The deputy sheriffs shall be appointed by the sheriff.
- (5) A person is not eligible to be appointed under subsection (3) or (4) unless he or she is a public servant.

46B Staff assisting registrar

- (1) The staff assisting the registrar shall be employed under the [Public Sector Management Act 1994](#).
- (2) The [Public Sector Management Act 1994](#) applies in relation to the management of the staff assisting the registrar.

47 Functions of registrar and deputy registrars

- (1) The registrar has power to administer oaths and may exercise the other functions given to the registrar under this Act, another Territory law or a special order of the court.
- (2) Subject to this Act and to any directions of the registrar, a deputy registrar may exercise the functions of the registrar under this Act or another Territory law.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and rules (see [Legislation Act 2001](#), s 104).

- (3) The exercise of a function by a deputy registrar does not affect the power of the registrar to exercise the function.

48 Oath or affirmation of office—registrar

Before exercising the functions of office, the registrar shall take or make—

- (a) an oath or affirmation in accordance with schedule 1, part 1.3;
or
- (b) an oath or affirmation in accordance with schedule 1, part 1.4;
before a judge.

50 Functions of sheriff

The sheriff shall—

- (a) serve or execute any process of the court directed to him or her; and
- (b) make due return to the court of such process; and
- (c) take due charge of any person committed to his or her custody by the court; and

- (d) discharge any such person as directed by the court or as required under a Territory law.

51 Deputy sheriffs

- (1) Subject to this Act and the directions of the sheriff, a deputy sheriff may exercise the functions of the sheriff under this Act or another Territory law.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and rules (see [Legislation Act 2001](#), s 104).

- (2) In exercising the functions of the sheriff, a deputy sheriff has all the rights, privileges, immunities and liabilities of the sheriff.
- (3) The exercise of a function by a deputy sheriff does not affect the power of the sheriff to exercise the function.

52 Process of court if sheriff or deputy sheriff is interested party

- (1) If the sheriff or a deputy sheriff is a party to a cause in the court, any process of the court in the cause that would, except for this section, be directed to the sheriff or the deputy (as the case may be) shall be directed to a disinterested person appointed by the court.
- (2) A person appointed under subsection (1) shall—
- (a) serve or execute a process directed to him or her; and
 - (b) make due return of the process to the court.
- (3) In exercising the functions of the sheriff or deputy sheriff, a person appointed under subsection (1) has all the rights, privileges, immunities and liabilities of the sheriff or a deputy sheriff (as the case requires).

53 Sheriff's assistants

- (1) The sheriff may appoint public servants to assist in the exercise of the sheriff's functions.

Note 1 For the making of appointments (including acting appointments), see [Legislation Act 2001](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act 2001](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) A person appointed under subsection (1) (a *sheriff's assistant*)—
- (a) may exercise any function given to the sheriff, subject to this Act and any directions of the sheriff; and
 - (b) has the rights, privileges, immunities and liabilities of the sheriff.
- (3) Anything done by a sheriff's assistant is taken to have been done by the sheriff.

Part 5 General matters of procedure

55A Hearing of bail applications

- (1) Unless the court otherwise directs, where—
 - (a) a person who is in custody is required or entitled to appear, or is required to be brought, before the court for the hearing of an application in relation to bail; and
 - (b) an audiovisual link is available between the place where the court is sitting and a place where the person is in custody;the proceeding shall be conducted by the audiovisual link.
- (2) The court may at any time vary or revoke a direction made under subsection (1), either on its own initiative or on the application of a party to the proceeding.
- (3) This section does not apply in relation to a child.
- (4) In this section:
audiovisual link—see the *Evidence (Miscellaneous Provisions) Act 1991*, dictionary.

58A Supreme Court trials—evidence of dead or absent persons

- (1) On the trial before the Supreme Court of a person who has been committed for trial, whether for the offence in relation to which the person was committed for trial or for an offence founded on evidence disclosed in the course of the committal hearing, it is provided that—
 - (a) a witness whose depositions were taken in the course of the committal proceedings is dead, is so ill as not to be able to travel or give evidence or is absent from Australia; and

- (b) if the witness gave evidence in person at the committal hearing, the accused person or the accused person's lawyer had the opportunity to cross-examine the witness;

any of the statements in the depositions that would, if the witness who made the depositions had given evidence on the trial have been admissible, are admissible as evidence on the trial.

- (2) In this section:

depositions, of a witness, means—

- (a) if a record of the depositions was made in accordance with the *Magistrates Court Act 1930*, section 316 (2) (Record of proceedings)—a transcript of the record certified in accordance with that Act, section 314 (2) (Registrar to give directions for preparation of transcript); or
- (b) if the depositions were taken down in writing and signed in accordance with the *Magistrates Court Act 1930*, section 316 (3)—the depositions taken down and signed.

60A Completion of part-heard matters—end of term of office

- (1) This section applies if—
 - (a) a judge or the associate judge would, apart from this section, cease to hold office under this Act; and
 - (b) at the time that the judge or associate judge would otherwise have ceased to hold office, proceedings were being heard by him or her (including proceedings in the Full Court or the Court of Appeal) but had not been finally determined.
- (2) If this section applies in relation to a judge or the associate judge, he or she continues to hold office for the purposes of the transitional proceedings.

- (3) If this section applies in relation to a judge or the associate judge, he or she may continue to exercise the jurisdiction of the court for the purposes of hearing and determining transitional proceedings.
- (4) An order (including an order for costs) made in transitional proceedings is a valid exercise of the court's jurisdiction, and may be enforced accordingly.
- (5) This section does not apply if a judge or the associate judge ceases to hold office because of his or her removal from office.
- (6) In this section:
transitional proceedings means proceedings referred to in subsection (1) (b).

61 Reserved judgments

- (1) If judgment is reserved in a proceeding before the Full Court after a full hearing, the judgment of the court (including the judgment of 1 or more of the judges sitting on the court) may later be delivered, orally or in writing, by any of the sitting judges.
- (2) It is not necessary for the other judges sitting on the Full Court in the proceeding to be present when judgment is delivered.

63 Change of venue

- (1) At any stage of proceedings on a cause or matter in the court, the court may order that the cause or matter be heard at a specified place within Australia, or continued at another specified place within Australia, subject to section 18 (1) and to any conditions specified in the order.
- (2) After a cause or matter in the court has been heard at a place, the court may give further hearing or consideration to the cause or matter, or pronounce judgment, at a sitting of the court at another place within Australia, subject to section 18 (1).

64 Seals

- (1) The Court of Appeal must have a seal.
- (2) The Supreme Court must have a seal.

67A Vexatious litigants

- (1) In this section:

aggrieved person, in relation to proceedings, means a person aggrieved by the institution of those proceedings.

proceedings means any cause, matter, action, suit or proceeding of any other kind within the jurisdiction of any court or tribunal and includes any proceeding taken in connection with any such legal proceedings pending before any court or tribunal.

vexatious proceedings means proceedings—

- (a) the purpose of which is to harass or annoy, to cause delay or for some other ulterior purpose; or
 - (b) that lack reasonable grounds.
- (2) If, on the application of the Attorney-General or an aggrieved person, the court is satisfied that a person has frequently instituted vexatious proceedings, the court may declare the person to be a vexatious litigant.
 - (3) A declaration may be expressed to apply only in relation to a particular type of matter.
 - (4) A declaration may be expressed to be subject to the conditions the court considers appropriate.

- (5) If a person is declared to be a vexatious litigant—
- (a) the person, or a person acting in concert with the person, shall not institute or continue any proceedings or, for a declaration expressed to apply only in relation to a particular type of matter, proceedings of that type, without the leave of the court; and
 - (b) any proceedings pending at the time of the declaration or, for a declaration expressed to apply only in relation to a particular type of matter, proceedings of that type, are stayed subject to any order of the court in relation to those proceedings.
- (6) If the court gives leave to a person for subsection (5) (a), it may impose the conditions it considers appropriate.
- (7) Conditions imposed under subsection (6) in relation to proceedings may include conditions—
- (a) relating to security for costs in the proceedings; and
 - (b) specifying matters relating to the issue of process in the proceedings.
- (8) Unless expressed to remain in force until the end of a date specified in the declaration, a declaration remains in force until revoked by the court.
- (9) The court may vary a declaration.
- (10) Subject to any order of the court, an order making, varying or revoking a declaration is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act 2001](#).
- (11) If proceedings are instituted by a person in contravention of this section, the proceedings shall be taken to have been permanently stayed.

- (12) If practicable, any documents filed or lodged with a court or tribunal by a person in proceedings referred to in subsection (11) shall be returned to the person by the registrar or similar officer of a court or tribunal.
- (13) Notwithstanding subsection (5), a person declared to be a vexatious litigant may, without the leave of the court, apply to the court for the revocation or variation of the declaration or of any conditions to which the declaration is subject.

Part 7 Trial on indictment

68 Prosecution of indictable offences

- (1) Subject to subsection (2), an indictable offence triable before the court shall be prosecuted by information in the name of the Attorney-General or of any other person the Attorney-General, in writing, appoints for this subsection.
- (2) The Attorney-General may file an information under subsection (1) without examination or commitment for trial of the accused person.
- (3) On an information being filed without examination or commitment for trial, the court 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 or her in custody or admit him or her to bail.
- (4) If a person has been committed for trial on a charge for an indictable offence triable before the court, the information against the person may include, either in substitution for, or in addition to, a count charging the offence for which the person was committed, a count founded on a fact or evidence disclosed in the course of the committal proceedings.
- (5) Subsection (4) does not authorise the inclusion of more than 1 count in the same information unless those counts may lawfully be joined in a single information.

- (6) If a person is under commitment on a charge of an indictable offence triable before the court, the Attorney-General, or any other person the Attorney-General, by instrument, appoints this subsection, may decline to proceed further in the prosecution and, if the accused person is in custody, may, by warrant, direct the discharge of the accused person from custody, and the accused person shall be discharged accordingly.

68A Trial by jury in criminal proceedings

Criminal proceedings shall be tried by a jury, except as otherwise provided by this part.

68B Trial by judge alone in certain criminal proceedings

- (1) A criminal proceeding against an accused person for an offence other than an excluded offence must be tried by a judge alone if—
- (a) the person elects in writing to be tried by a judge alone; and
 - (b) the person produces a certificate signed by a legal practitioner stating that—
 - (i) the legal practitioner has advised the person in relation to the election; and
 - (ii) the person has made the election freely; and
 - (c) the election and certificate are filed in the court before—
 - (i) the person, or the person's legal representative, knows the identity of the judge for the person's trial; and
 - (ii) any time limit prescribed under the rules; and
 - (d) if there is more than 1 accused person in the proceeding—
 - (i) each other accused person also elects to be tried by a judge alone; and

- (ii) each other accused person's election is made in relation to all offences for which that person is to be tried in the proceeding; and
 - (iii) none of the offences for which any other accused person is to be tried is an excluded offence.
- (2) An accused person who elects to be tried by a judge alone may, at any time before the person is arraigned, elect to be tried by a jury.
- (3) If an accused person makes and then withdraws an election, the person may not make another election.
- (4) In this section:

excluded offence means an offence against a provision mentioned in an item in schedule 2 (Trial by judge alone—excluded offences), part 2.2, column 3 of an Act mentioned in the item, column 2.

68C Verdict of judge in criminal proceedings

- (1) A judge who tries criminal proceedings without a jury may make any finding that could have been made by a jury as to the guilt of the accused person and any such finding has, for all purposes, the same effect as a verdict of a jury.
- (2) The judgment in criminal proceedings tried by a judge alone must include the principles of law applied by the judge and the findings of fact on which the judge relied.
- (3) In criminal proceedings tried by a judge alone, if a territory law requires a warning or direction to be given, or a comment to be made, to a jury in the proceedings, the judge must take the warning, direction or comment into account in considering his or her verdict.

Part 8 Back-up and related offences

68CA Definitions—pt 8

In this part:

back-up offence, in relation to an indictable offence (the *first indictable offence*), means an offence—

- (a) that is—
 - (i) a summary offence; or
 - (ii) an indictable offence that is capable of being dealt with summarily by the Magistrates Court under the *Magistrates Court Act 1930*, part 3.6 (Proceedings for offences punishable summarily); and
- (b) at least some of the elements of which are similar to the elements that constitute the first indictable offence; and
- (c) that is to be prosecuted on the same facts as the first indictable offence.

related offence, in relation to an indictable offence (the *first indictable offence*), means an offence, other than a back-up offence—

- (a) that is—
 - (i) a summary offence; or
 - (ii) an indictable offence that is capable of being dealt with summarily by the Magistrates Court under the *Magistrates Court Act 1930*, part 3.6 (Proceedings for offences punishable summarily); and
- (b) that arises from substantially the same circumstances as those from which the first indictable offence has arisen.

68D Back-up and related offences

- (1) This section applies in the following circumstances:
 - (a) if the Magistrates Court commits an accused person for trial or sentencing to the Supreme Court under any of the following provisions of the *Magistrates Court Act 1930*:
 - (i) section 90B (Back-up and related offences—transfer to Supreme Court);
 - (ii) section 92A (1) (Committal for sentence for indictable offence tried summarily);
 - (iii) section 94 (1) (b) (Discharge or committal for trial);
 - (iv) section 291G (2) (Childrens Court may send cases to Supreme Court for sentencing);
 - (b) at the conclusion of the trial of an accused person for an indictable offence, or in the course of a sentencing proceeding.
- (2) The court must deal with any back-up or related offence with which the accused person has been charged if the court considers that it is in the interests of justice.
- (3) The court may deal with a back-up or related offence with which an accused person has been charged even though it is not doing so in relation to a back-up or related offence with which another accused person in the same proceedings is charged.

68E Procedure

- (1) The court shall deal with a back-up or related offence under this part—
 - (a) without a jury; and
 - (b) on the basis only—
 - (i) of evidence given during the trial of the accused person for any indictable offence in the same proceedings; and

(ii) of any additional evidence given under this section.

- (2) The prosecutor or the accused person may, with the leave of the court, call additional evidence in relation to the back-up or related offence.
- (3) In sentencing or otherwise dealing with a person for a back-up or related offence, the court has the same functions as the Magistrates Court.

68F Remission of back-up and related offences to Magistrates Court

The court may, at any time, remit a back-up or related offence being dealt with under this part to the Magistrates Court.

68G Alternative verdict—summary offence

- (1) This section applies if, on the trial of a person for an indictable offence against a territory law—
 - (a) the person is found not guilty of the offence but guilty of another offence that, under that law, is an alternative offence; and
 - (b) the alternative offence is a summary offence.
- (2) The court may sentence or otherwise deal with the person for the alternative offence.
- (3) In sentencing or otherwise dealing with the person, the court has the same functions as the Magistrates Court.

Part 8AA Acquittals

Division 8AA.1 Application—pt 8AA

68H Application—pt 8AA

- (1) This part applies if—
 - (a) a person has been acquitted of an offence (a *principal offence*); and
 - (b) a double jeopardy law of the Territory would, but for this part, prevent the person from being retried for the principal offence, or from being tried for another offence, in a proceeding in the ACT.
- (2) A reference to a person acquitted of a principal offence includes a person acquitted of a principal offence in a proceeding in another jurisdiction if a law of the jurisdiction provides for the retrial of the person for the offence, or the trial of the person for another offence.
- (3) This part abrogates the doctrine of double jeopardy, however expressed in a double jeopardy law, to the extent necessary for the operation of this part and—
 - (a) confers on the Crown a right of appeal against an acquittal in a criminal proceeding; and
 - (b) permits the retrial of a person acquitted of an offence (the *acquittal offence*), and the trial of the person for another offence.

Note A reference to a territory law includes a reference to an Act and the common law (see [Legislation Act](#), dict, pt 1, def *territory law*).

(4) In this section:

double jeopardy law means a territory law that gives effect to a rule of double jeopardy in a criminal proceeding.

Example—law that gives effect to a rule of double jeopardy

a law that does any of the following in relation to a criminal proceeding:

- (a) makes available the plea of *autrefois acquit* or *autrefois convict*;
- (b) gives effect to the principle that a person should not be punished more than once for the same matter;
- (c) gives effect to the principle of finality of an acquittal;
- (d) prevents an abuse of process brought about by repeated prosecution for an offence when the repeated prosecution is based on facts that are manifestly inconsistent with a previous acquittal or previous conviction

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

Division 8AA.2 Important concepts

68I Definitions—pt 8AA

In this part:

acquittal—see section 68J.

administration of justice offence means—

- (a) if the offence is committed in the ACT—an offence under the [Criminal Code](#), chapter 7 (Administration of justice offences) other than part 7.3 (a ***chapter 7 offence***); or
- (b) if the offence is committed in a jurisdiction other than the ACT—a corresponding offence to a chapter 7 offence.

another jurisdiction means a jurisdiction other than the ACT and includes a jurisdiction outside Australia.

category A offence means an offence punishable by imprisonment for life.

category B offence means an offence punishable by imprisonment for life or imprisonment for 15 years or longer.

compelling, evidence—see section 68K.

court means the Court of Appeal.

fresh, evidence—see section 68K.

tainted, acquittal—see section 68L.

68J Meaning of *acquittal*—pt 8AA

- (1) For this part an *acquittal* in a criminal proceeding includes—
 - (a) an order of an appellate court that quashes a conviction or finding of guilt for an offence; and
 - (b) a verdict, returned or entered, of not guilty of an offence.
- (2) However, for this part, an *acquittal* in a criminal proceeding does not include a special verdict of not guilty of an offence because of mental impairment, returned or entered, under the *Crimes Act 1900*, division 13.3 or the *Criminal Code*, section 28 (7).
- (3) In this section:

finding of guilt, for an offence, means—

- (a) an order made for the offence under the *Crimes (Sentencing) Act 2005*, section 17 (Non-conviction orders—general); and
- (b) a decision by a court to take the offence into account under the *Crimes (Sentencing) Act 2005*, section 57 (Outstanding additional offences taken into account in sentencing).

68K Meaning of *fresh* and *compelling* evidence—pt 8AA

- (1) For this part, evidence against a person acquitted of an offence is *fresh* if the evidence—
 - (a) was not tendered in the proceeding in which the person was acquitted of the offence; and
 - (b) could not, in the course of an exercise of reasonable diligence, have been tendered in the proceeding.
- (2) However, for this part, evidence against a person acquitted of an offence is not *fresh* if the evidence—
 - (a) was, or was considered to be, inadmissible in the proceeding in which the person was acquitted of the offence; and
 - (b) would, as a result of a change in the law on or after the person was acquitted of the offence, be admissible in a proceeding in which the person is retried for the offence.
- (3) For this part, evidence against a person acquitted of an offence is *compelling* if the evidence is—
 - (a) reliable; and
 - (b) substantial; and
 - (c) highly probative of the guilt of the acquitted person in the context of the issues in dispute in the proceeding in which the person was acquitted.

68L Meaning of *tainted* acquittal—pt 8AA

- (1) For this part, an acquittal is *tainted* if—
 - (a) the person acquitted of an offence (the *acquittal offence*), or someone else, has been convicted of an administration of justice offence that is relevant to the proceeding in which the acquittal happened; and

- (b) it is more likely than not that, but for the commission of the administration of justice offence, the acquitted person would have been convicted of the acquittal offence.
- (2) However, an acquittal is not *tainted* if the conviction for the administration of justice offence is subject to an appeal for which leave is not required.

Division 8AA.3 Retrial etc of acquitted person

68M Court may order retrial—category A offence

- (1) The court may, on application by the director of public prosecutions, order a person acquitted of an offence (an *acquitted person*) to be retried for a category A offence if satisfied that—
 - (a) there is fresh and compelling evidence against the acquitted person in relation to the offence; and
 - (b) it is in the interests of justice for the order to be made.
- (2) If the court orders the acquitted person to be retried, the court must quash the person’s acquittal and remove the acquittal as a bar to the person being retried for a category A offence.
- (3) The court may, under this section, order the acquitted person to be retried for a category A offence even if the person was acquitted of a lesser offence.
- (4) The acquitted person is entitled to appear at the hearing of an application under this section and may be represented by a legal practitioner.
- (5) This section applies only if the acquittal that is the subject of the application happened on or after the commencement of the [Supreme Court Amendment Act 2016](#), section 3.

68N Court may order retrial—category B offence

- (1) The court may, on application by the director of public prosecutions, order a person acquitted of an offence (an *acquitted person*) to be retried for a category B offence if satisfied that—
 - (a) the person’s acquittal is tainted; and
 - (b) it is in the interests of justice for the order to be made.
- (2) If the court orders the acquitted person to be retried, the court must quash the person’s acquittal and remove the acquittal as a bar to the person being retried for a category B offence.
- (3) The court may, under this section, order the acquitted person to be retried for a category B offence even if the person was acquitted of a lesser offence.
- (4) If the court makes an order under this section for an acquitted person to be retried, based on the person’s conviction for an administration of justice offence (the *justice offence*), and the conviction for the justice offence is quashed after the order is made, the acquitted person may apply to the court to set aside the order and—
 - (a) restore the acquittal that was quashed; or
 - (b) restore the acquittal as a bar to the acquitted person being retried for an offence.
- (5) The acquitted person is entitled to appear at the hearing of an application under this section and may be represented by a legal practitioner.
- (6) This section applies whether the acquittal that is the subject of the application happened before, on or after the commencement of the [Supreme Court Amendment Act 2016](#), section 3.

68O Court may order trial—administration of justice offence

- (1) The court may, on application by the director of public prosecutions, order a person who has been acquitted of an indictable offence (an *acquitted person*) to be tried for an administration of justice offence that is related to the proceeding for the indictable offence, if satisfied that—
 - (a) there is fresh evidence against the acquitted person; and
 - (b) the evidence is relevant to the administration of justice offence; and
 - (c) it is in the interests of justice for the order to be made.
- (2) If the court orders the acquitted person to be tried for the administration of justice offence, the court must quash the person's acquittal for the indictable offence and remove the acquittal for the indictable offence as a bar to the person being tried for the administration of justice offence.
- (3) The acquitted person is entitled to appear at the hearing of an application under this section and may be represented by a legal practitioner.
- (4) This section applies whether the acquittal that is the subject of the application happened before, on or after the commencement of the [Supreme Court Amendment Act 2016](#), section 3.

68P Interests of justice

When determining whether an order under section 68M (Court may order retrial—category A offence), section 68N (Court may order retrial—category B offence) or section 68O (an *order*) is in the interests of justice, the court must take into account the following:

- (a) whether an acquitted person to whom the order would relate is, in the circumstances, likely to receive a fair trial;

- (b) the period since the offence, for which an acquitted person would be tried or retried as a result of an order, was committed;
- (c) whether a police officer or prosecutor has failed to act with reasonable diligence or expedition in relation to the application for an order.

Division 8AA.4 Procedure

Subdivision 8AA.4.1 Applications under pt 8AA

68Q Conditions for retrial application

- (1) An application under section 68M (Court may order retrial—category A offence) or section 68N (Court may order retrial—category B offence) for the retrial of an acquitted person must not be made unless—
 - (a) the acquitted person has been charged with the offence for which the retrial is sought (the *retrial offence*); or
 - (b) a warrant has been issued for the person’s arrest in relation to the retrial offence.
- (2) The application must be made not later than 28 days after the person is charged with the retrial offence or the warrant is issued for the person’s arrest in relation to the retrial offence.
- (3) The court may extend the period mentioned in subsection (2).

68R Limitations on retrial application

- (1) Not more than 1 application in relation to the same acquittal may be made under this part for the retrial of an acquitted person.
- (2) For an acquittal that happens in a retrial ordered under this part—
 - (a) no further application may be made under section 68M (Court may order retrial—category A offence) in relation to the acquittal; but
 - (b) a further application may be made under section 68N (Court may order retrial—category B offence) in relation to the acquittal.

68S Conditions for justice offence trial application

- (1) An application under section 68O (Court may order trial—administration of justice offence) for the trial of an acquitted person must not be made unless—
 - (a) the person has been charged with the administration of justice offence for which the trial is sought (the *justice offence*); or
 - (b) a warrant has been issued for the person's arrest for the justice offence.
- (2) The application must be made not later than 28 days after the person is charged with the justice offence or the warrant is issued for the person's arrest in relation to the justice offence.
- (3) The Court may extend the period mentioned in subsection (2).

Subdivision 8AA.4.2 Presentation of indictment

68T Limitations on indictment

- (1) If an acquitted person is, by an order under division 8AA.3, liable to be retried for a category A offence or a category B offence, the director of public prosecutions must not, in a proceeding allowed by the order, present an indictment against the person for an offence that was not enacted at the time the person is alleged to have engaged in conduct constituting the offence for which the person was acquitted and that was the subject of the application for the order.
- (2) Subsection (3) applies if an acquitted person is, by an order under division 8AA.3, liable to be—
 - (a) retried for a category A offence or a category B offence (a *retrial offence*); and
 - (b) tried for an administration of justice offence (a *justice offence*), in relation to the proceeding for which the person was acquitted (the *original proceeding*) and that was the subject of the application for the order that the person be retried for the category A or category B offence.
- (3) The director of public prosecutions may, in a proceeding allowed by the order, present an indictment against the person for—
 - (a) if the justice offence does not directly controvert the person's acquittal in the original proceeding—both the retrial offence and the justice offence; or
 - (b) if the justice offence directly controverts the person's acquittal in the original proceeding—either the retrial offence or the justice offence, but not both.

68U Indictment for retrial of category A or category B offences

- (1) An indictment against a person liable under this part to be retried of a category A or category B offence must be presented against the person within 2 months after the day the order for the retrial was made (the *indictment period*) under section 68M (Court may order retrial—category A offence) or section 68N (Court may order retrial—category B offence) (a *retrial order*).
- (2) However, the court may give leave to present the indictment after the end of the indictment period if it is satisfied that in the circumstances—
 - (a) the prosecutor has acted reasonably expeditiously to present the indictment; and
 - (b) that presenting the indictment will not cause an injustice to the person.
- (3) An indictment presented in accordance with this section may be amended or replaced at any time if the court is satisfied that amending or replacing the indictment will not cause an injustice to the person.
- (4) If, after the end of the indictment period, an indictment for the retrial has not been presented or has been withdrawn or quashed, the person may apply to the court for any of the following:
 - (a) an order setting aside the retrial order;
 - (b) an order restoring the acquittal quashed by the retrial order;
 - (c) an order restoring the bar to the person being tried for the offence.
- (5) If the retrial order is set aside, a further application may not be made under this part for the retrial of the person in relation to the offence mentioned in the retrial order.

68V Indictment for trial of justice offence

- (1) An indictment against a person liable under this part to be tried for an administration of justice offence must be presented against the person within 2 months after the day the order for the trial was made (the *indictment period*) under section 68O (Court may order trial—administration of justice offence) (a *trial order*).
- (2) However, the court may give leave to present the indictment after the end of the indictment period if it is satisfied that in the circumstances—
 - (a) the prosecutor has acted reasonably expeditiously to present the indictment; and
 - (b) that presenting the indictment will not cause an injustice to the person.
- (3) An indictment presented in accordance with this section may be amended or replaced at any time if the court is satisfied that amending or replacing the indictment will not cause an injustice to the person.
- (4) If, after the end of the indictment period, an indictment for the trial has not been presented or has been withdrawn or quashed, the person may apply to the court for any of the following:
 - (a) an order setting aside the trial order;
 - (b) an order restoring the acquittal quashed by the trial order;
 - (c) an order restoring the bar to the person being tried for the offence.
- (5) If the trial order is set aside, a further application may not be made under section 68O for the trial of the person in relation to the offence mentioned in the trial order.

Division 8AA.5 Conduct of proceeding for retrial etc

68W Prosecution must not refer to certain matters before jury

- (1) At the retrial of a person in accordance with an order under section 68M (Court may order retrial—category A offence) or section 68N (Court may order retrial—category B offence) the prosecution must not mention before the jury that the court has found that it appears that—
 - (a) there is fresh and compelling evidence against the person; or
 - (b) more likely than not, but for the commission of an administration of justice offence, the person would have been convicted of an offence.
- (2) At the trial of a person in accordance with an order under section 68O (Court may order trial—administration of justice offence) the prosecution must not mention before the jury that the court has found that it appears that there is fresh evidence against the person.

Division 8AA.6 Miscellaneous

68X Entitlement to bail

The *Bail Act 1992*, section 9A (Entitlement to bail—offences other than minor offences), applies to a person charged with an offence for which a retrial, or a trial, is sought under this part.

68Y Single course of action for each proceeding

A person acquitted of an offence must not in a single proceeding—

- (a) be retried for the offence (the *principal offence*) under this part; and
- (b) be tried for an administration of justice offence related to the principal offence.

68Z Restrictions on publication

- (1) A person must not publish any matter that identifies or is capable of identifying an acquitted person—
 - (a) who is being retried for an offence as a result of an order under section 68M (Court may order retrial—category A offence) or section 68N (Court may order retrial—category B offence); or
 - (b) who is being tried for an administration of justice offence as a result of an order under section 68O (Court may order trial—administration of justice offence); or
 - (c) who is the subject of—
 - (i) a police investigation, or an application for a police investigation, under the *Crimes Act 1900*, section 252L (Authorisation of police investigations—acquitted person); or

Note Procedure for a police investigation of an offence suspected to have been committed by a person acquitted of the offence are set out under the *Crimes Act 1900*, s 252L.
 - (ii) an application for a retrial, or trial for an administration of justice offence, or an order for retrial, or trial for an administration of justice offence, under this part.
- (2) However, subsection (1) does not apply if the publication is authorised by order of—
 - (a) the court; or
 - (b) a court before which the acquitted person is being retried, or tried for the administration of justice offence.
- (3) The relevant court may at any time vary or revoke an order under this section.

- (4) The prohibition on publication under this section ceases to have effect, subject to any order under this section, when whichever of the following happens first:
 - (a) there is no longer any step that could be taken which would lead to the acquitted person being retried, or tried for the administration of justice offence, under this part;
 - (b) if the acquitted person is retried, or tried for an administration of justice offence, under this part—the trial ends.
- (5) Nothing in this section affects any prohibition of the publication of any matter under any other law in force in the Territory.
- (6) A contravention of this section is punishable as contempt of the Supreme Court.

68ZA Maximum penalty for retrial offence

- (1) This section applies if an acquitted person is—
 - (a) retried for a category A offence or a category B offence as a result of an order under division 8AA.3; and
 - (b) found guilty of the offence.
- (2) When imposing a sentence on the person for the offence, the court must not exceed the maximum penalty for the offence that applied at the time the person is alleged to have engaged in conduct that constituted the offence for which the person was acquitted and that was the subject of the application for the order.

68ZB Indemnification for costs

- (1) This section applies if—
 - (a) an application is made to the court by the director of public prosecutions for an order under division 8AA.3 in relation to—
 - (i) the retrial of an acquitted person under section 68M (Court may order retrial—category A offence); or

- (ii) the retrial of an acquitted person under section 68N (Court may order retrial—category B offence); or
 - (iii) the trial of an acquitted person for an administration of justice offence under section 68O (Court may order trial—administration of justice offence); and
- (b) the acquitted person (the *applicant*) applies to the court for indemnification of the applicant's costs incurred as a result of—
 - (i) an application for an order mentioned in paragraph (a); or
 - (ii) if the order is granted—a proceeding resulting from the order.
- (2) The court may make an order, subject to any conditions the court thinks appropriate, that the applicant is entitled to be indemnified for the costs mentioned in subsection (1) (b) (an *indemnification order*) if the court is satisfied that the order is in the interests of justice.
- (3) When deciding whether it is in the interests of justice to make an indemnification order the court may take into account the following:
 - (a) whether the court makes an order mentioned in subsection (1) (a);
 - (b) whether the applicant's acquittal, that is the subject of the application for an order mentioned in subsection (1) (a), was attributable to the act, neglect or fault of the applicant;
 - (c) any other matter that the court considers relevant.
- (4) If the court makes an indemnification order in the applicant's favour the applicant must be indemnified by the Territory, in relation to the costs mentioned in the order, for an amount assessed as reasonably incurred.

Note If a form is approved under the [Court Procedures Act 2004](#), s 8 for an application, the form must be used.

Part 8A Judicial officers exchange

69A Definitions—pt 8A

In this division:

ACT court means a court of this jurisdiction mentioned in an item in schedule 3, column 2.

corresponding court, in relation to an ACT court mentioned in an item in schedule 3, column 2, means a court of another jurisdiction mentioned in the item, column 3.

court includes tribunal.

judicial exchange arrangement means an arrangement under section 69B.

judicial officer means a judge or other person who, whether alone or together with others, constitutes a court, but does not include a lay member of a court.

participating jurisdiction means the Commonwealth, a State or another country if under the law of that jurisdiction a judicial exchange arrangement may be entered into with the Attorney-General of this jurisdiction.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

this jurisdiction means the ACT.

69B Establishment of judicial exchange arrangements

- (1) The Attorney-General of this jurisdiction may enter into an arrangement with the Attorney-General of a participating jurisdiction for the temporary transfer of judicial officers between ACT courts and corresponding courts.
- (2) An arrangement under this section cannot provide for the transfer of judicial officers to a federal court of the Commonwealth.

- (3) Without limiting subsection (1), an arrangement under this section—
 - (a) may require transfers to a court to be subject to the prior approval of either or both of the following:
 - (i) the Attorney-General of this jurisdiction;
 - (ii) the Attorney-General of the participating jurisdiction; and
 - (b) may establish the manner and form in which a transfer to a court is to be made; and
 - (c) may determine the rank, title, status and precedence of a transferred judicial officer.

69C Transfer of judicial officer of another jurisdiction to ACT court

- (1) This section applies if a judicial exchange arrangement provides for the transfer to an ACT court of a judicial officer of a corresponding court.
- (2) The Chief Justice may, in accordance with the judicial exchange arrangement and with the agreement of the senior judicial officer of the corresponding court, appoint a judicial officer of the corresponding court to act as a judicial officer of the ACT court.
- (3) The judicial officer of the corresponding court is qualified for appointment despite any law of this jurisdiction to the contrary.
- (4) The maximum term for which an appointment under this section may be made on any one occasion is 6 months.
- (5) However, an appointment under this section may not extend beyond the retirement age for judicial officers of the ACT court.
- (6) A judicial officer of a corresponding court may be appointed under this section to more than one ACT court.

- (7) A judicial officer whose appointment under this section has ceased may complete or otherwise continue to deal with any matters relating to proceedings in the ACT court that have been heard, or partly heard, by the judicial officer before the appointment under this section ceased.

69D Service in ACT court of judicial officer of another jurisdiction

- (1) This section applies to a judicial officer of a corresponding court who is appointed to act as a judicial officer of an ACT court in accordance with a judicial exchange arrangement.
- (2) While acting as a judicial officer of the ACT court, the judicial officer of the corresponding court has all the powers, authorities, privileges and immunities of, and is taken to be for all purposes, a judicial officer of the ACT court.
- (3) Despite subsection (2), territory laws concerning the following matters do not apply to the judicial officer of the corresponding court while acting as a judicial officer of the ACT court:
- (a) the remuneration, allowances and other conditions of service of judicial officers;
 - (b) the pension or other superannuation entitlements of judicial officers and related provisions;
 - (c) the removal or suspension of judicial officers from office.

69E Service of ACT judicial officer in corresponding court

- (1) This section applies to a judicial officer of an ACT court who is appointed to act as a judicial officer of a corresponding court in accordance with a judicial exchange arrangement.

- (2) The judicial officer's service as a judicial officer of the corresponding court is taken to be service as a judicial officer of the ACT court for the purposes of territory laws about—
- (a) the remuneration, allowances and other conditions of service of judicial officers; and
 - (b) the pension or other superannuation entitlements of judicial officers and related provisions; and
 - (c) the removal or suspension of judicial officers from office.

69F Judicial office not affected by appointment to another judicial office

- (1) In this section:
- court* includes a tribunal (however described) that exercises functions of a judicial nature or functions of a similar nature (such as conciliation functions, arbitration functions, disciplinary functions or administrative review functions).
- judicial office* extends to the office of any member of a court, but only if the holder of the office is required to be a judicial officer or have legal qualifications.
- (2) The doctrine of incompatibility of office—
- (a) does not operate to prevent the holder of a judicial office (the *original office*) from being appointed to another judicial office (the *additional office*); and
 - (b) does not operate to effect or require the surrender or vacation of the original office as a result of the appointment to the additional office.
- (3) This section applies—
- (a) even if the original office or the additional office is held on an acting or temporary basis; and

- (b) even if the original office or the additional office is a judicial office of another jurisdiction (including, but not limited to, judicial offices to which appointments are made under section 69C); and
- (c) even if an appeal lies from a decision of the court of one of the judicial offices to the court of the other judicial office; and
- (d) even if the courts of the judicial offices are not of the same status.

69G Other arrangements not affected

This division does not limit or affect any other arrangements under which—

- (a) a judicial officer of another jurisdiction may be appointed or act as a judicial officer of this jurisdiction; or
- (b) a judicial officer of this jurisdiction may be appointed or act as a judicial officer of another jurisdiction.

69H Amendment of sch 3

A regulation may amend schedule 3.

Part 9 Miscellaneous

70A Failure to attend Supreme Court as required

- (1) If a person duly bound by recognisance or served with a subpoena to attend as a witness in a proceeding before the Supreme Court fails to attend, or remain in attendance, before the Supreme Court as required by the recognisance or the subpoena, the court may issue its warrant directing that the person be arrested and brought before the court to give evidence in the proceeding.
- (2) If a person duly bound by a recognisance or served with a subpoena to attend as a witness in a proceeding before the Supreme Court appears or is brought before the Supreme Court, after having failed to attend or remain in attendance before the Supreme Court as required by the recognisance or the subpoena, the court may, if satisfied that the failure to attend was without just cause or reasonable excuse—
 - (a) order the person to pay a fine not exceeding \$5 000; or
 - (b) order that the person be imprisoned for not longer than 6 months; or
 - (c) make orders under both paragraph (a) and (b).

71 Security of the peace and for good behaviour

The court may hold persons to security of the peace and for good behaviour in matters arising under the laws of the Territory.

74A Certified copies of transcript of Supreme Court proceedings

- (1) If a record is made of evidence given in a proceeding before the Supreme Court, the registrar has custody of the record.

(2) The registrar shall give the directions necessary to ensure that, as and when required, a transcript of the record of evidence given in a proceeding in the Supreme Court is prepared, and, for the purpose of enabling the transcript to be prepared, the record shall be produced out of the custody of the registrar.

(3) The person who—

- (a) prepares a transcript under subsection (2); or
- (b) if such a transcript is prepared under supervision—supervises the transcription;

shall certify on the transcript that it is a true transcript of the record of the proceedings produced out of the custody of the registrar.

(4) If—

- (a) a record of evidence given in a proceeding in the Supreme Court has been made by means of sound recording apparatus; and
- (b) the sound recording is produced out of the custody of the registrar; and
- (c) the sound recording contains a record of the comments that purport—
 - (i) to have been made at the same time as the sound recording produced out of the custody of the registrar was made; and
 - (ii) to have been made for the purpose of identifying the proceeding or the voices recorded by the sound recording or any other matter or thing so recorded;

the sound recording is evidence of the identity of the proceedings, of the voices or of the other matter or thing, as the case may be.

- (5) On application, the registrar shall, subject to subsection (6)—
- (a) give the applicant a copy of the whole or any requested part of a transcript prepared under subsection (2); and
 - (b) certify on the copy that it is a true copy of the transcript or part, as the case may be.
- (6) The registrar shall not give a copy of a transcript or part of a transcript to an applicant unless—
- (a) the applicant is a party to the proceeding to which the transcript relates; or
 - (b) the applicant satisfies the registrar or a judge that he or she has good reason for applying.
- (7) If—
- (a) a document purports to be a transcript, made in accordance with this section, of evidence given by a person in a proceeding in the Supreme Court; and
 - (b) the document bears a certificate that purports to be a certificate given in accordance with subsection (5);
- any statement in the document is admissible in evidence in another proceeding to the same extent that the statement would, if given orally, be admissible in that other proceeding if the person—
- (c) is dead; or
 - (d) is outside Australia and it is not reasonably practicable to secure his or her attendance; or
 - (e) if unfit because of old age or bodily or mental condition to appear as a witness; or
 - (f) cannot with reasonable diligence be found.

76 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

Part 11 Transitional—Courts Legislation Amendment Act 2015

110 Meaning of *commencement day*—pt 11

In this part:

commencement day means the day the *Courts Legislation Amendment Act 2015*, section 3 commences.

111 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Courts Legislation Amendment Act 2015*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

112 Expiry—pt 11

This part expires 2 years after the commencement day.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see *Legislation Act*, s 88).

Schedule 1 **Oaths and affirmations of office**

(see s 19, s 42 and s 48)

Part 1.1 **Chief Justice, judges and master**

Oath

1, [name], do swear that 1 will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, and her heirs and successors, in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that 1 will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

Affirmation

1, [name], do solemnly and sincerely affirm that 1 will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, and her heirs and successors, in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that 1 will do right to all manner of people according to law, without fear or favour, affection or ill will.

* State whichever is applicable.

Part 1.2 Chief Justice, judges and master

Oath

1, [name], do swear that 1 will well and truly serve in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that 1 will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

Affirmation

1, [name], do solemnly and sincerely affirm that 1 will well and truly serve in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that 1 will do right to all manner of people according to law, without fear or favour, affection or ill will.

* State whichever is applicable.

Part 1.3 Registrar

Oath

1, [name], do swear that 1 will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second and her heirs and successors, and that 1 will well and truly serve her in the office of registrar of the Supreme Court of the Australian Capital Territory. So help me God.

Affirmation

1, [name], do solemnly and sincerely affirm that 1 will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second and her heirs and successors, and that 1 will well and truly serve her in the office of registrar of the Supreme Court of the Australian Capital Territory.

Part 1.4 **Registrar**

Oath

1, [name], do swear that 1 will well and truly serve in the office of registrar of the Supreme Court of the Australian Capital Territory. So help me God.

Affirmation

1, [name], do solemnly and sincerely affirm that 1 will well and truly serve in the office of registrar of the Supreme Court of the Australian Capital Territory.

Schedule 2 **Trial by judge alone—excluded offences**

(see s 68B (4))

Part 2.1 **Definitions—sch 2**

2.1 **Definitions—sch 2**

In this schedule:

Crimes Act means the *Crimes Act 1900*.

Prostitution Act means the *Prostitution Act 1992*.

Radiation Act means the *Radiation Protection Act 2006*.

Note A reference to an offence against an ACT law includes a reference to an offence against the [Criminal Code](#), pt 2.4 (Extensions of criminal responsibility) and s 717 (Accessory after the fact) that relates to the ACT law (see [Legislation Act](#), s 189).

Part 2.2 **Excluded offences**

column 1 item	column 2 legislation	column 3 provision and case (if any)	column 4 description
1	Crimes Act	12	murder
2	Crimes Act	15	manslaughter
3	Crimes Act	17	suicide—aiding etc
4	Crimes Act	29 (2) or (3)	culpable driving of motor vehicle causing death
5	Crimes Act	42	child destruction
6	Crimes Act	49C	industrial manslaughter—employer offence
7	Crimes Act	49D	industrial manslaughter—senior officer offence
8	Crimes Act	51	sexual assault in the first degree

Schedule 2
Part 2.2

Trial by judge alone—excluded offences
Excluded offences

column 1 item	column 2 legislation	column 3 provision and case (if any)	column 4 description
9	Crimes Act	52	sexual assault in the second degree
10	Crimes Act	53	sexual assault in the third degree
11	Crimes Act	54	sexual intercourse without consent
12	Crimes Act	55	sexual intercourse with young person
13	Crimes Act	55A	sexual intercourse with young person under special care
14	Crimes Act	56	maintaining sexual relationship with young person
15	Crimes Act	57	act of indecency in the first degree
16	Crimes Act	58	act of indecency in the second degree
17	Crimes Act	59	act of indecency in the third degree
18	Crimes Act	60	act of indecency without consent
19	Crimes Act	61	acts of indecency with young people
20	Crimes Act	61A	act of indecency with young person under special care
21	Crimes Act	62	incest and similar offences
22	Crimes Act	63	abduction (for sexual purposes)
23	Crimes Act	63A	bestiality
24	Crimes Act	64	using child for production of child exploitation material etc
25	Crimes Act	64A	trading in child exploitation material
26	Crimes Act	65	possessing child exploitation material
27	Crimes Act	66	using the internet etc to deprave young people
28	Crimes Act	74	prohibition of female genital mutilation
29	Crimes Act	75	removal of child from ACT for genital mutilation
30	Crimes Act	79	sexual servitude offences
31	Crimes Act	80	deceptive recruiting for sexual services
32	Prostitution Act	20	causing child to provide commercial sexual services etc

column 1 item	column 2 legislation	column 3 provision and case (if any)	column 4 description
33	Prostitution Act	21	receiving proceeds of child prostitution
34	Radiation Act	55, if failure causes death	failure to comply with safety duty causing death

Schedule 3 ACT and corresponding courts

(see s 69A, defs *ACT court* and *corresponding court*)

column 1 item	column 2 ACT court	column 3 corresponding court
1	Supreme Court	Federal Court of Australia Supreme Court of any State (other than Queensland)

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACAT
- Criminal Code
- exercise
- function
- indictable offence (see s 190)
- indictment
- police officer
- proceeding
- the Territory.

acquittal, for part 8AA (Acquittals)—see section 68J.

acting judge means an acting judge appointed under section 4B.

additional judge means a judge appointed under section 4A.

administration of justice offence, for part 8AA (Acquittals)—see section 68I.

another jurisdiction, for part 8AA (Acquittals)—see section 68I.

associate judge means the person known as the Associate Judge under section 45.

back-up offence, in relation to an indictable offence—for part 8 (Back-up and related offences)—see section 68CA.

category A offence, for part 8AA (Acquittals)—see section 68I.

category B offence, for part 8AA (Acquittals)—see section 68I.

cause includes any suit, and also includes criminal proceedings.

Chief Justice means the Chief Justice of the Supreme Court, and includes a judge acting as Chief Justice.

compelling, evidence, for part 8AA (Acquittals)—see section 68K.

court—

(a) for this Act generally—means the Supreme Court; and

(b) for part 8AA (Acquittals)—see section 68I.

Court of Appeal means the Supreme Court constituted as a Court of Appeal under part 2A (Court of Appeal).

criminal proceedings means proceedings in the court for the prosecution of a person on indictment.

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.

deputy registrar means a deputy registrar of the court.

deputy sheriff means a deputy sheriff of the Territory.

entitlements, for part 2B (Remuneration, allowances and other entitlements of judges)—see section 37T.

fresh, evidence, for part 8AA (Acquittals)—see section 68K.

Full Court means the court constituted by not less than 3 judges sitting together.

judge means a resident judge, additional judge or acting judge.

judgment includes an order or sentence.

Judicature Act means the *Supreme Court of Judicature Act 1873* (36 & 37 Vic c 66) (UK).

master means the Master of the court.

matter includes any proceeding in the Supreme Court, whether between parties or not, and also any incidental proceeding in a cause or matter.

order includes a judgment, decree, direction or decision.

plaintiff includes any person seeking any relief against any other person by any form of proceeding in a court.

pre-Judicature Act proceedings means proceedings in the English Court of Chancery immediately before the commencement of the Judicature Act.

process of the court includes a writ, summons, order, warrant and precept issued by the court.

registrar means the Registrar of the court.

related offence, in relation to an indictable offence—for part 8 (Back-up and related offences)—see section 68CA.

resident judge means the Chief Justice or another judge appointed under section 4, and includes the judges (other than additional judges) who continue to hold office under the [A.C.T. Self-Government \(Consequential Provisions\) Act 1988](#) (Cwlth), section 29A.

rules means rules under the [Court Procedures Act 2004](#) applying in relation to the court.

sheriff means the Sheriff of the Territory.

suit includes any action or original proceeding between parties of a civil nature.

tainted, acquittal, for part 8AA (Acquittals)—see section 68L.

Endnotes

1 About the endnotes

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth Act—the *Seat of Government Supreme Court Act 1933-34* (Cwlth).

It was renamed the *Australian Capital Territory Supreme Court Act 1933* by the [Statute Law Revision Act 1950](#) (Cwlth).

It was later renamed the *Supreme Court Act 1933* by the [A.C.T. Supreme Court \(Transfer\) Act 1992](#) (Cwlth).

The [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 34 (2) converted some Commonwealth 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 1992 under the [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 34 (3).

Legislation before becoming Territory enactment

Supreme Court Act 1933 A1933-34

assented to 9 December 1933

commenced 1 January 1934 (s 3)

as amended by

[Seat of Government Supreme Court Act 1935 No 27](#) (Cwlth)

assented to 13 April 1935

commenced 13 April 1935

[Seat of Government Supreme Court Act 1945 No 57](#) (Cwlth)

assented to 19 October 1945

commenced 19 October 1945 (s 2)

[Salaries \(Statutory Offices\) Adjustment Act 1947 No 52](#) (Cwlth) sch 1

assented to 1 November 1947

commenced 1 November 1947 (s 2 (1))

[Judges' Pensions Act 1948 No 65](#) (Cwlth) sch

assented to 9 December 1948

commenced 9 December 1948 (s 2)

[Salaries \(Statutory Offices\) Adjustment Act 1950 No 51](#) (Cwlth) sch 1

assented to 14 December 1950

commenced 1 July 1950 (s 2)

Endnotes

3 Legislation history

Statute Law Revision Act 1950 No 80 (Cwlth) sch 1

assented to 16 December 1950
commenced 31 December 1950 (s 2)

Judges' Remuneration Act 1955 No 17 (Cwlth) sch 1

assented to 9 June 1955
commenced 1 January 1955 (s 2)

Australian Capital Territory Supreme Court Act 1955 No 36 (Cwlth)

assented to 16 June 1955
commenced 14 July 1955

Australian Capital Territory Supreme Court Act 1956 No 47 (Cwlth)

assented to 30 June 1956
commenced 14 August 1956 (s 2 and Cwlth Gaz 1956 p 2489)

Australian Capital Territory Supreme Court Act 1957 No 34 (Cwlth)

assented to 7 June 1957
commenced 5 July 1957

Australian Capital Territory Supreme Court Act 1958 No 43 (Cwlth)

assented to 29 September 1958
commenced 29 September 1958 (s 2)

Australian Capital Territory Supreme Court Act 1959 No 51 (Cwlth)

assented to 22 May 1959
commenced 22 May 1959 (s 2)

Judges' Remuneration Act 1960 No 110 (Cwlth) sch 1

assented to 16 December 1960
commenced 1 October 1960 (s 2)

**Australian Capital Territory Supreme Court Act 1964 No 109 (Cwlth)
(as am by Act 1973 No 216 (Cwlth) sch 1)**

assented to 20 November 1964
s 5 commenced 27 October 1960 (s 2 (2))
remainder commenced on assent (s 2 (1))

Judges' Remuneration Act 1965 No 92 (Cwlth) sch 1

assented to 4 December 1965
amdt commenced 1 July 1965 (s 2)

Australian Capital Territory Supreme Court Act 1966 No 8 (Cwlth)

assented to 3 May 1966
commenced 31 May 1966

**Statute Law Revision (Decimal Currency) Act 1966 No 93 (Cwlth)
sch 1**

assented to 29 October 1966
amdts commenced 1 December 1966 (s 2 (1))

Australian Capital Territory Supreme Court Act 1968 No 156 (Cwlth)

assented to 10 December 1968
commenced 10 December 1968 (s 2)

Judges' Remuneration Act 1969 No 40 (Cwlth) sch 1

assented to 14 June 1969
commenced 14 June 1969 (s 2)

Australian Capital Territory Supreme Court Act 1971 No 13 (Cwlth)

assented to 5 April 1971
commenced 5 April 1971 (s 2)

**Australian Capital Territory Supreme Court Act (No 2) 1971 No 98
(Cwlth)**

assented to 17 November 1971
commenced 17 November 1971 (s 2)

Statute Law Revision Act 1973 No 216 (Cwlth) sch 1

assented to 19 December 1973
commenced 31 December 1973 (s 2)

**Australian Capital Territory Supreme Court Amendment Act 1976
No 158 (Cwlth)**

assented to 9 December 1976
s 12, s 14 commenced 1 February 1977 (s 2 (2) and Cwlth Gaz 1977
No S3)
remainder commenced on assent (s 2 (1))

**Australian Capital Territory Supreme Court Amendment Act 1978
No 3 (Cwlth)**

assented to 20 March 1978
commenced 1 April 1980 (s 2 and Cwlth Gaz 1980 No S65)

Endnotes

3 Legislation history

Statute Law Revision Act 1981 No 61 (Cwlth) sch 1 (as am by 1982 No 26 (Cwlth) s 217)

assented to 12 June 1981
amds commenced 12 June 1981 (2 (1))

Companies (Miscellaneous Amendments) Act 1981 No 92 (Cwlth) pt 5

assented to 18 June 1981
s 1, s 2 commenced on assent
pt 5 commenced 1 July 1982 (s 2 (3) and Cwlth Gaz 1982 No S124)

Statute Law (Miscellaneous Amendments) Act 1981 No 176 (Cwlth) pt 6 (as am by 1982 No 80 (Cwlth) s 14)

assented to 2 December 1981
pt 6 commenced 30 December 1981 (s 2 (12))

Statute Law (Miscellaneous Amendments) Act (No 1) 1982 No 26 (Cwlth) pt 8

assented to 7 May 1982
pt 8 commenced 7 May 1982 (s 2 (1))

Statute Law (Miscellaneous Provisions) Act (No 2) 1983 No 91 (Cwlth) sch 1

assented to 22 November 1983
amdt commenced 1 January 1984 (s 2 (4))

Director of Public Prosecutions (Consequential Amendments) Act 1983 No 114 (Cwlth) s 4

assented to 14 December 1983
s 4 commenced 5 March 1984 (s 2 (1) and Cwlth Gaz 1984 No S55)

Statute Law (Miscellaneous Provisions) Act (No 1) 1985 No 65 (Cwlth) sch 1

assented to 5 June 1985
amdt commenced 3 July 1985 (s 2 (1))

Statute Law (Miscellaneous Provisions) Act (No 2) 1986 No 168 (Cwlth) sch 1

assented to 18 December 1986
amdt commenced 18 December 1986 (s 2 (1))

Statute Law (Miscellaneous Provisions) Act 1988 No 38 (Cwlth) sch 1

assented to 3 June 1988
amds commenced 9 November 1988 (s 2 (3) and Cwlth Gaz 1988 No S348)

Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988 No 99 (Cwlth) sch

assented to 2 December 1988
commenced 2 December 1988 (s 2)

A.C.T. Self-Government (Consequential Provisions) Act 1988 No 109 (Cwlth) sch

assented to 6 December 1988
amds commenced 11 May 1989 (s 2 (3) and Cwlth Gaz 1989 No S164)

as modified by

A.C.T. Self-Government (Consequential Provisions) Regulations SR 1989 No 3 (Cwlth) (as am by SR 1989 No 52 (Cwlth), SR 1989 No 188 (Cwlth) and Act 1992 No 49 (Cwlth) s 16)

notified 25 January 1989
mod s 28 (1) commenced 11 May 1989 (SR 1989 No 52 s 2 (1))
remainder commenced 1 July 1990 (SR 1989 No 52 s 2 (2))
mod ended 1 July 1992

as amended by

Law and Justice Legislation Amendment Act 1990 No 115 (Cwlth) sch

assented to 21 December 1990
amdt commenced 21 December 1990 (s 2 (1))

Law and Justice Legislation Amendment Act 1991 No 136 (Cwlth) sch

assented to 12 September 1991
amdt commenced 10 October 1991

A.C.T. Supreme Court (Transfer) Act 1992 No 49 (Cwlth) s 14, sch 1

assented to 17 June 1992
amds commenced 1 July 1992 (s 2)

Legislation after becoming Territory enactment

Supreme Court (Amendment) Act 1993 A1993-59

notified 6 September 1993 ([Gaz 1993 No S172](#))

commenced 6 September 1993 (s 2)

Supreme Court (Amendment) Act (No 2) 1993 A1993-91

notified 17 December 1993 ([Gaz 1993 No S258](#))

commenced 17 December 1993 (s 2)

Legal Practitioners (Amendment) Act 1993 A1993-94 s 45

notified 24 December 1993 ([Gaz 1993 No S267](#))

commenced 24 December 1993 (s 2)

Supreme Court (Amendment) Act 1994 A1994-3

notified 14 March 1994 ([Gaz 1993 No S44](#))

commenced 14 March 1994 (s 2)

Judicial Commissions (Consequential Amendments) Act 1994 A1994-10 s 11

notified 14 March 1994 ([Gaz 1994 No S44](#))

commenced 14 March 1994 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 A1994-38 sch 1 pt 75

notified 30 June 1994 ([Gaz 1994 No S121](#))

s 1, s 2 commenced 30 June 1994 (s 2 (1))

sch 1 pt 75 commenced 1 July 1994 (s 2 (2) and [Gaz 1994 No S142](#))

Mental Health (Consequential Provisions) Act 1994 A1994-45 sch

notified 7 September 1994 ([Gaz 1994 No S177](#))

s 1, s 2 commenced 7 September 1994 (s 2 (1))

sch commenced 6 February 1995 (s 2 (2) and see [Gaz 1995 No S33](#))

Administrative Appeals (Consequential Amendments) Act 1994 A1994-60 sch 1

notified 11 October 1994 ([Gaz 1994 No S197](#))

s 1, s 2 commenced 11 October 1994 (s 2 (1))

sch 1 commenced 14 Nov 1994 (s 2 (2) and see [Gaz 1994 No S250](#))

Statute Law Revision Act 1995 A1995-46 sch

notified 18 December 1995 ([Gaz 1995 No S306](#))

amds commenced 18 December 1995 (s 2)

Financial Management and Audit (Consequential and Transitional Provisions) Act 1996 A1996-26 sch pt 34

notified 1 July 1996 ([Gaz 1996 No S130](#))
commenced 1 July 1996 (s 2)

Remuneration Tribunal (Consequential Amendments) Act 1997 A1997-41 sch 1 (as am by A2002-49 amdt 3.222)

notified 19 September 1997 ([Gaz 1997 No S264](#))
commenced 24 September 1997 (s 2 as am by [A2002-49 amdt 3.222](#))

Coroners (Consequential Provisions) Act 1997 A1997-58 sch 1

notified 9 October 1997 ([Gaz 1997 No S300](#))
commenced 9 October 1997 (s 2)

Juries (Amendment) Act 1997 A1997-83 s 34

notified 25 November 1997 ([Gaz 1997 No S360](#))
s 34 commenced 25 November 1997 (s 2 (1))

Legal Practitioners (Consequential Amendments) Act 1997 A1997-96 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))

Supreme Court (Amendment) Act 1998 A1998-6

notified 25 May 1998 ([Gaz 1998 No S150](#))
commenced 25 May 1998 (s 2)

Supreme Court (Amendment) Act (No 2) 1998 A1998-72

notified 23 December 1998 ([Gaz 1998 No S212](#))
s 4, s 5 and s 7 taken to have commenced 29 September 1997 (s 2 (2))
remainder commenced 23 December 1998 (s 2 (1))

Courts and Tribunals (Audio Visual and Audio Linking) Act 1999 A1999-22 pt 14

notified 14 April 1999 ([Gaz 1999 No S16](#))
s 1, s 2 commenced 14 April 1999 (s 2 (1))
pt 14 commenced 1 September 1999 (s 2 and [Gaz 1999 No 35](#))

Endnotes

3 Legislation history

**Children and Young People (Consequential Amendments) Act 1999
A1999-64 sch 2**

notified 10 November 1999 ([Gaz 1999 No 45](#))
s 1, s 2 commenced 10 November 1999 (s 2 (1))
sch 2 commenced 10 May 2000 (s 2 (2))

Law Reform (Miscellaneous Provisions) Act 1999 A1999-66 sch 3

notified 10 November 1999 ([Gaz 1999 No 45](#))
commenced 10 November 1999 (s 2)

**Victims of Crime (Financial Assistance) (Amendment) Act 1999
A1999-91 sch 2**

notified 23 December 1999 ([Gaz 1999 No S65](#))
s 1, s 2 commenced 23 December 1999 (IA s 10B)
sch 2 commenced 24 December 1999 (s 2 (2) and [Gaz 1999 No S69](#))

**Justice and Community Safety Legislation Amendment Act 2000
A2000-1 sch**

notified 9 March 2000 ([Gaz 2000 No 10](#))
amnds commenced 9 March 2000 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2000
(No 3) A2000-17 sch 1**

notified 1 June 2000 ([Gaz 2000 No 22](#))
commenced 1 June 2000 (s 2)

Supreme Court Amendment Act 2001 A2001-7

notified 8 March 2001 ([Gaz 2001 No 10](#))
commenced 8 March 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 375

notified 26 July 2001 ([Gaz 2001 No 30](#))
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 375 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

Supreme Court Amendment Act 2001 (No 2) 2001 No 54

notified 15 August 2001 ([Gaz 2001 No S57](#))
s 1, s 2 commenced 15 August 2001 (IA s 10B)
s 3, s 15, sch 1 and sch 2 commenced 15 August 2001 (s 2 (1))
ss 4-12, s 13 (to the extent that it inserts s 37E (1) and 37E (3), s 37F,
s 37G, s 37H, s 37I, s 37J, s 37K, s 37L, s 37M, s 37N, s 37O and s

37P) and s 14 commenced 11 September 2001 ([Gaz 2001 No S69](#) and IA s 10C)

s 13 to the extent that it inserts s 37E (2) (a) (i) and s 37E (2) (c) commenced 1 October 2001 ([Gaz 2001 No S69](#))

remainder commenced 14 October 2002 (s 2 (2) and [CN2002-11](#))

[Crimes Legislation Amendment Act 2001 A2001-63 pt 11 \(as am 2002 No 49 amdt 3.52\)](#)

notified 10 September 2001 ([Gaz 2001 No S66](#))

s 1, s 2 commenced 10 September 2001 (IA s 10B)

pt 11 om [A2002-49](#) before commencement

[Defamation Act 2001 A2001-88 s 43 \(3\)](#)

notified LR 24 September 2001

s 1, s 2 commenced 24 September 2001 (LA s 75)

s 43 (3) commenced 1 July 2002 (s 2)

[Statute Law Amendment Act 2002 A2002-30 pt 3.80](#)

notified LR 16 September 2002

s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))

pt 3.80 commenced 17 September 2002 (s 2 (1))

[Civil Law \(Wrongs\) Act 2002 A2002-40 div 3.2.12](#)

notified LR 10 October 2002

s 1, s 2 commenced 10 October 2002 (LA s 75 (1))

div 3.2.12 commenced 1 November 2002 (s 2 (2) and [CN2002-13](#))

[Statute Law Amendment Act 2002 \(No 2\) A2002-49 amdt 3.52, amdt 3.222](#)

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

amdt 3.52 commenced 17 January 2003 (s 2 (1))

amdt 3.222 commenced 24 September 1997 (s 2 (3))

Note This Act only amends the [Crimes Legislation Amendment Act 2001 A2001-63](#) and the [Remuneration Tribunal \(Consequential Amendments\) Act 1997 A1997-41](#) .

[Justice and Community Safety Legislation Amendment Act 2003 A2003-2 pt 17](#)

notified LR 3 March 2003

s 1, s 2 commenced 3 March 2003 (LA s 75 (1))

pt 17 commenced 31 March 2003 (s 2 (2))

Endnotes

3 Legislation history

**Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48
sch 2 pt 2.14**

notified LR 31 October 2003
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))
sch 2 pt 2.14 commenced 30 April 2004 (s 2 and LA s 79)

**Sexuality Discrimination Legislation Amendment Act 2004 A2004-2
sch 1 pt 1.15**

notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 1 pt 1.15 commenced 22 March 2004 (s 2 and [CN2004-4](#))

**Court Procedures (Consequential Amendments) Act 2004 A2004-60
sch 1 pt 1.70**

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
sch 1 pt 1.70 commenced 10 January 2005 (s 2 and see [Court Procedures Act 2004 A2004-59](#), s 2 and [CN2004-29](#))

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.64

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.64 commenced 2 June 2005 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2005
(No 3) A2005-43 sch 1 pt 1.13**

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
amdt 1.41 commenced 28 February 2006 (s 2 (3) and LA s 79)
sch 1 pt 1.13 remainder commenced 1 October 2005 (s 2 (3) and [CN2005-18](#))

**Justice and Community Safety Legislation Amendment Act 2005
(No 4) A2005-60 sch 1 pt 1.25**

notified LR 1 December 2005
s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))
sch 1 pt 1.25 commenced 22 December 2005 (s 2 (4))

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.34

notified LR 18 May 2006

s 1, s 2 commenced 18 May 2006 (LA s 75 (1))

sch 1 pt 1.34 commenced 2 June 2006 (s 2 (1) and see [Crimes \(Sentence Administration\) Act 2005 A2005-59 s 2](#), [Crimes \(Sentencing\) Act 2005 A2005-58, s 2](#) and LA s 79)

Legal Profession Act 2006 A2006-25 sch 2 pt 2.10

notified LR 21 June 2006

s 1, s 2 commenced 21 June 2006 (LA s 75 (1))

sch 2 pt 2.10 commenced 1 July 2006 (s 2)

Justice and Community Safety Legislation Amendment Act 2006 A2006-40 sch 2 pt 2.30

notified LR 28 September 2006

s 1, s 2 commenced 28 September 2006 (LA s 75 (1))

sch 2 pt 2.30 commenced 29 September 2006 (s 2 (1))

Supreme Court (Judges Pensions) Amendment Act 2006 A2006-43

notified LR 24 October 2006

s 1, s 2 commenced 24 October 2006 (LA s 75 (1))

remainder commenced 25 October 2006 (s 2)

Housing Assistance Act 2007 A2007-8 sch 1 pt 1.9

notified LR 10 May 2007

s 1, s 2 commenced 10 May 2007 (LA s 75 (1))

sch 1 pt 1.9 commenced 10 November 2007 (s 2 and LA s 79)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.96

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.96 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 \(1\)](#) and [CN2009-2](#))

Court Legislation Amendment Act 2008 A2008-42 pt 5

notified LR notified LR 8 September 2008

s 1, s 2 commenced 8 September 2008 (LA s 75 (1))

pt 5 commenced 8 March 2009 (s 2 and LA s 79)

Endnotes

3 Legislation history

Crimes Legislation Amendment Act 2008 A2008-44 sch 1 pt 1.13

notified LR 9 September 2008

s 1, s 2 commenced 9 September 2008 (LA s 75 (1))

sch 1 pt 1.13 commenced 30 May 2009 (s 2 and [CN2009-4](#))

Justice and Community Safety Legislation Amendment Act 2009 (No 2) A2009-19 pt 16

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

pt 16 commenced 29 September 2009 (s 2)

Crimes Legislation Amendment Act 2009 A2009-24 sch 1 pt 1.10

notified LR 3 September 2009

s 1, s 2 commenced 3 September 2009 (LA s 75 (1))

sch 1 pt 1.10 commenced 4 September 2009 (s 2)

Courts (Appointments) Amendment Act 2009 A2009-37 pt 3

notified LR 21 October 2009

s 1, s 2 commenced 21 October 2009 (LA s 75 (1))

pt 3 commenced 22 October 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2009 (No 3) A2009-44 sch 1 pt 1.15

notified LR 24 November 2009

s 1, s 2 commenced 24 November 2009 (LA s 75 (1))

sch 1 pt 1.15 commenced 22 December 2009 (s 2 (3))

Justice and Community Safety Legislation Amendment Act 2010 A2010-13 sch 1 pt 1.7

notified LR 31 March 2010

s 1, s 2 commenced 31 March 2010 (LA s 75 (1))

s 3 commenced 1 April 2010 (LA s 75AA)

sch 1 pt 7 commenced 28 April 2010 (s 2 (4))

Crimes (Sentence Administration) Amendment Act 2010 A2010-21 sch 1 pt 1.9

notified LR 30 June 2010

s 1, s 2 commenced 30 June 2010 (LA s 75 (1))

sch 1 pt 1.9 commenced 1 July 2010 (s 2)

**Justice and Community Safety Legislation Amendment Act 2010
(No 3) A2010-40 sch 3 pt 3.2**

notified LR 5 October 2010
s 1, s 2 commenced 5 October 2010 (LA s 75 (1))
s 3 commenced 6 October 2010 (s 2 (1))
sch 3 pt 3.2 commenced 2 November 2010 (s 2 (2))

Criminal Proceedings Legislation Amendment Act 2011 A2011-20 pt 3

notified LR 6 July 2011
s 1, s 2 commenced 6 July 2011 (LA s 75 (1))
pt 3 commenced 7 July 2011 (s 2)

Law Officers Act 2011 A2011-30 sch 1 pt 1.6

notified LR 29 August 2011
s 1, s 2 commenced 29 August 2011 (LA s 75 (1))
sch 1 pt 1.6 commenced 31 August 2011 (s 2 and [CN2011-9](#))

**Evidence (Consequential Amendments) Act 2011 A2011-48 sch 1
pt 1.36**

notified LR 22 November 2011
s 1, s 2 commenced 22 November 2011 (LA s 75 (1))
sch 1 pt 1.36 commenced 1 March 2012 (s 2 (1) and see [Evidence Act 2011 A2011-12](#), s 2 and [CN2012-4](#))

Courts Legislation Amendment Act 2012 A2012-29 sch 1 pt 1.2

notified LR 13 June 2012
s 1, s 2 commenced 13 June 2012 (LA s 75 (1))
sch 1 pt 1.2 commenced 13 August 2012 (s 2 and [CN2012-14](#))

Crimes Legislation Amendment Act 2013 A2013-12 pt 11

notified LR 17 April 2013
s 1, s 2 commenced 17 April 2013 (LA s 75 (1))
pt 11 commenced 24 April 2013 (s 2)

Courts Legislation Amendment Act 2014 A2014-1 pt 6

notified LR 5 March 2014
s 1, s 2 commenced 5 March 2014 (LA s 75 (1))
pt 6 commenced 2 April 2014 (s 2)

Endnotes

3 Legislation history

Courts Legislation Amendment Act 2015 A2015-10 pt 17

notified LR 7 April 2015

s 1, s 2 commenced 7 April 2015 (LA s 75 (1))

pt 17 commenced 21 April 2015 (s 2 (2))

Crimes (Child Sex Offenders) Amendment Act 2015 A2015-35 sch 1 pt 1.6

notified LR 1 October 2015

s 1, s 2 commenced 1 October 2015 (LA s 75 (1))

sch 1 pt 1.6 commenced 2 October 2015 (s 2)

Crimes (Domestic and Family Violence) Legislation Amendment Act 2015 A2015-40 sch 1 pt 1.11

notified LR 4 November 2015

s 1, s 2 commenced 4 November 2015 (LA s 75 (1))

sch 1 pt 1.11 commenced 4 May 2016 (s 2 (2))

Courts Legislation Amendment Act 2015 (No 2) A2015-52 pt 14

notified LR 26 November 2015

s 1, s 2 commenced 26 November 2015 (LA s 75 (1))

pt 14 commenced 10 December 2015 (s 2 (2))

Supreme Court Amendment Act 2016 A2016-36

notified LR 22 June 2016

s 1, s 2 commenced 22 June 2016 (LA s 75 (1))

remainder commenced 23 June 2016 (s 2)

Justice and Community Safety Legislation Amendment Act 2016 (No 2) A2016-53 pt 4

notified LR 25 August 2016

s 1, s 2 taken to have commenced 23 June 2016 (LA s 75 (2))

pt 4 taken to have commenced 23 June 2016 (s 2 (2) and see

[Supreme Court Amendment Act 2016 A2016-36 s 2](#))

4 Amendment history

In this table Acts and statutory rules for 1992 and earlier years are Commonwealth Acts and statutory rules, and Acts for 1993 and later years are ACT Acts.

Long title

long title am [Cwlth Act 1971 No 98](#)

Name of Act

s 1 am [Cwlth Act 1950 No 80](#); [Cwlth Act 1992 No 49](#)
sub [A2001-54](#) amdt 1.1

Dictionary

s 2 orig s 2 sub [Cwlth Act 1959 No 51](#)
am [Cwlth Act 1964 No 109](#)
om [Cwlth Act 1973 No 216](#)
(prev s 5) am [Cwlth Act 1935 No 27](#); [Cwlth Act 1945 No 57](#);
[Cwlth Act 1957 No 34](#); [Cwlth Act 1958 No 43](#); [Cwlth Act 1964](#)
[No 109](#); [Cwlth Act 1968 No 156](#); [Ord1971-13](#); [Cwlth Act 1971](#)
[No 98](#); [Cwlth Act 1973 No 216](#); [Cwlth Act 1976 No 158](#);
[Ord1982-26](#); [Cwlth Act 1988 No 38](#); [Cwlth Act 1988 No 109](#);
[Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
defs reloc to dict [A2001-54](#) amdt 1.3
om [A2001-54](#) amdt 1.4
def **acting judge** ins [A1993-91](#) s 4
om [A2001-54](#) amdt 1.2
def **additional judge** am [A1993-91](#) sch 2
om [A2001-54](#) amdt 1.2
def **Chief Justice** om [A2001-54](#) amdt 1.2
def **enactment** om [A1993-91](#) sch 2
def **Ordinance** om [A1993-91](#) sch 2
def **resident judge** ins [A1993-91](#) s 4
om [A2001-54](#) amdt 1.2
def **the court** om [A1993-91](#) sch 2
def **the Judicature Act** om [A1993-91](#) sch 2
def **the Registrar** om [A1993-91](#) sch 2
def **the Sheriff** om [A1993-91](#) sch 2
def **the Supreme Court** om [A1993-91](#) sch 2
def **the Territory** or **the Australian Capital Territory** om
[A1993-91](#) sch 2
pres s 2 ins [A2001-54](#) amdt 1.5
am [A2002-30](#) amdt 3.820

Notes

s 2A ins [A2001-54](#) amdt 1.5

Endnotes

4 Amendment history

Establishment

s 3 orig s 3 am [Cwlth Act 1973 No 216](#); [Cwlth Act 1976 No 158](#) ;
[Cwlth Act 1981 No 61](#)
om [Cwlth Act 1992 No 49](#)
(prev s 6) am [Cwlth Act 1958 No 43](#); [Ord1971-13](#); [Cwlth Act 1971 No 98](#); [Cwlth Act 1976 No 158](#); [Ord1982-26](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 5

Resident judges

s 4 hdg sub [A2001-54](#) amdt 1.6
s 4 orig s 4 om [Cwlth Act 1973 No 216](#)
(prev s 7) sub [Cwlth Act 1958 No 43](#)
am [Cwlth Act 1968 No 156](#); [Ord1971-13](#); [Cwlth Act 1971 No 98](#); [Cwlth Act 1973 No 216](#); [Cwlth Act 1976 No 158](#); [Ord1982-26](#); [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A1994-10](#) s 11 (1); [A1997-96](#) sch 1; [A2001-54](#) amdt 1.7, amdt 1.8

Requirements of appointment—resident judges

s 4AA ins [A2009-37](#) s 7

Additional judges

s 4A orig s 4A renum as s 4B
ins [A2001-54](#) amdt 1.9

Acting judges

s 4B hdg sub [A2001-54](#) amdt 1.10
s 4B (prev s 4A) ins [A1993-91](#) s 6
am [A1997-96](#) sch 1
renum [A2001-54](#) amdt 1.10
am [A2001-54](#) amdt 1.11

Seniority of judges

s 5 (prev s 7AA) ins [Cwlth Act 1988 No 109](#)
sub [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 7; [A2001-54](#) s 4, s 5; R7 LA (see [A2001-54](#) s 6); [A2015-10](#) s 40, s 41; ss renum R45 LA

Acting Chief Justice

s 6 (prev s 7A) ins [Cwlth Act 1976 No 158](#)
am [Ord1982-26](#)
renum [Cwlth Act 1992 No 49](#)
am [A2001-54](#) amdt 1.12

Arrangement of business of court

s 7 (prev s 7B) ins [Cwlth Act 1976 No 158](#)
am [Ord1982-26](#)
renum [Cwlth Act 1992 No 49](#)
am [A2001-54](#) s 7; [A2015-10](#) s 42

Exercise of jurisdiction

s 8 am [Cwlth Act 1945 No 57](#); [Cwlth Act 1956 No 47](#)
sub [Cwlth Act 1958 No 43](#)
am [Cwlth Act 1968 No 156](#); [Ord1971-13](#)
sub [Cwlth Act 1971 No 98](#)
am [Cwlth Act 1976 No 158](#)
sub [Cwlth Act 1988 No 38](#)
mod [Cwlth SR 1989 No 3](#) (as am [Cwlth SR 1989 No 188](#)) (exp
1 July 1992)
am [Cwlth Act 1992 No 49](#); [A1993-91](#) sch 2; [A2001-54](#) s 8;
[A2004-60](#) amdt 1.634; [A2006-40](#) amdt 2.172; [A2015-10](#) s 43

Exercise of jurisdiction by associate judge

s 9 (prev s 8AAA) ins [Cwlth Act 1988 No 38](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2001-54](#) s 9, s 10; [A2001-54](#) amdt 1.13;
[A2002-30](#) amdt 3.821, amdt 3.822; [A2004-60](#) amdt 1.635,
amdt 1.636; [A2006-40](#) amdts 2.173-2.175
sub [A2015-10](#) s 44

Exercise of jurisdiction by registrar

s 10 (prev s 8AAB) ins [Cwlth Act 1988 No 38](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2001-54](#) amdt 1.13; [A2002-30](#) amdts
3.823-3.826; [A2004-60](#) amdt 1.637, amdt 1.638; [A2005-60](#)
amdt 1.132, amdt 1.133; [A2006-40](#) amdt 2.176, amdt 2.177

Exercise of jurisdiction—legal practitioners

s 11 (prev s 8AA) ins [Cwlth Act 1968 No 156](#)
am [Ord1971-13](#); [Cwlth Act 1971 No 98](#); [Cwlth Act 1976](#)
[No 158](#)
mod [Cwlth SR 1989 No 3](#) (as am [SR Ord1989-52](#)) (exp 1 July
1992)
sub [Cwlth Act 1990 No 115](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) s 8
am [A1993-94](#) s 45; [A1997-96](#) sch 1; [A2006-25](#) amdt 2.20

Endnotes

4 Amendment history

Exercise of jurisdiction under subsections 46 (4) and 48 (2) of the administrative appeals tribunal Act

s 12 hdg am [A1993-91](#) note
s 12 (prev s 8AABA) mod [Cwlth SR 1989 No 3](#) (as am [Cwlth SR 1989 No 188](#)) (exp 1 July 1992)
ins [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A1994-60](#) sch 1
om [A2000-1](#) sch

Power of judge to order that jurisdiction in a matter be exercised by Full Court

s 13 hdg am [A1993-91](#) note
s 13 orig s 13 am [Cwlth Act 1968 No 156](#); [Cwlth Act 1971 No 98](#)
om [Cwlth Act 1976 No 158](#)
(prev s 8AB) ins [Cwlth Act 1971 No 98](#)
am [Cwlth Act 1976 No 158](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2002-30](#) amdt 3.827; [A2004-60](#) amdt 1.639

Full Court decisions—equal division of opinion

s 14 (prev s 8AC) ins [Cwlth Act 1971 No 98](#)
am [Cwlth Act 1976 No 158](#); [Cwlth Act 1988 No 38](#)
mod [Cwlth SR 1989 No 3](#) (as am [Cwlth SR 1989 No 188](#)) (exp 1 July 1992)
am [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 9, sch 2; [A2001-54](#) amdt 1.14; [A2006-40](#) amdt 2.187, amdt 2.179; [A2015-10](#) s 45

Exercise by court of powers of master

s 15 (prev s 8AD) ins [Cwlth Act 1988 No 38](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2001-54](#) amdt 1.15
om [A2006-40](#) amdt 2.180

Holding other judicial offices

s 16 (prev s 8A) ins [Cwlth Act 1945 No 57](#)
sub [Cwlth Act 1957 No 34](#); [Cwlth Act 1958 No 43](#); [Cwlth Act 1964 No 109](#)
am [Cwlth Act 1973 No 216](#); [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 10, sch 2

Salaries and travelling expenses

s 17 (prev s 8B) ins [Cwlth Act 1945 No 57](#)
am [Cwlth Act 1947 No 52](#); [Cwlth Act 1948 No 65](#); [Cwlth Act 1950 No 51](#); [Cwlth Act 1955 No 17](#); [Cwlth Act 1958 No 43](#);
[Cwlth Act 1960 No 110](#); [Cwlth Act 1965 No 92](#); [Cwlth Act 1966 No 93](#); [Cwlth Act 1969 No 40](#); [Ord1971-13](#)
sub [Cwlth Act 1976 No 158](#)
am [Ord1982-26](#); [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 11, sch 2; [A1996-26](#) sch pt 34; [A1997-41](#)
sch 1
om [A1998-72](#) s 4

Principal seat of court and sittings

s 18 (prev s 9) am [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2004-60](#) amdt 1.640

Oath or affirmation of office—judges

s 19 (prev s 10) am [Cwlth Act 1958 No 43](#); [Cwlth Act 1976 No 158](#);
[Cwlth Act 1981 No 176](#) (as am by [Ord1982-80](#)); [Ord1982-26](#);
[Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) s 12; [A2001-7](#) s 4
am [A2002-30](#) amdts 3.828-3.830

Jurisdiction and powers of Supreme Court

s 20 (prev s 11) sub [Cwlth Act 1957 No 34](#)
am [Cwlth Act 1976 No 158](#); [Cwlth Act 1981 No 61](#); [Cwlth Act 1988 No 109](#)
sub [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2

Distinction between court and chambers

s 21 (prev s 12) am [Cwlth Act 1957 No 34](#); [Cwlth Act 1968 No 156](#);
[Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) s 13
om [A2006-40](#) amdt 2.180

No trial by jury in civil proceedings

s 22 hdg sub [A1993-59](#) note
s 22 (prev s 14) renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 14, sch 2; [A2001-88](#) s 43 (3)
sub [A2002-40](#) amdt 3.39

Endnotes

4 Amendment history

Costs

s 23 (prev s 15) am [Cwlth Act 1957 No 34](#); [Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2004-60](#) amdt 1.641; [A2005-60](#)
amdts 1.134-1.136
reloc to [Court Procedures Act 2004](#), div 10.7 as s 134 by
[A2005-60](#) amdt 1.137

Service of writs out of the jurisdiction of the court

s 24 (prev s 16) am [Cwlth Act 1950 No 80](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2
om [A2004-60](#) amdt 1.642

Law and equity to be concurrently administered

s 25 (prev s 17) am [Cwlth Act 1976 No 158](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2010-13](#) amdt 1.30

Equities of plaintiff

s 26 (prev s 18) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

Equities of defendant

s 27 (prev s 19) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

Counterclaims and third parties

s 28 (prev s 20) am [Cwlth Act 1957 No 34](#); [Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2
om [A2006-40](#) amdt 2.180

Incidental equities

s 29 orig s 29 om [Cwlth Act 1959 No 51](#)
(prev s 21) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

Defence or stay of proceeding instead of prohibition order or injunction

s 30 orig s 30 om [Cwlth Act 1959 No 51](#)
(prev s 22) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2
am [A2002-30](#) amdt 3.831; [A2004-60](#) amdt 1.643; ss renum
R18 LA (see [A2004-60](#) amdt 1.644)
sub [A2006-40](#) amdt 2.181

Common law and statute

s 31 orig s 31 om [Cwlth Act 1959 No 51](#)
(prev s 23) am [Cwlth Act 1973 No 216](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

Final determination of matters

s 32 orig s 32 om [Cwlth Act 1959 No 51](#)
(prev s 24) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

Law and equity

s 33 orig s 33 om [Cwlth Act 1959 No 51](#)
(prev s 25) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

Remuneration and allowances

s 33B ins [Cwlth Act 1988 No 38](#)
om [Cwlth Act 1992 No 49](#)

Terms and conditions of appointment not provided by Act

s 33E ins [Cwlth Act 1988 No 38](#)
om [Cwlth Act 1992 No 49](#)

Equitable damages

s 34 (prev s 26) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) s 15
am [A2001-54](#) amdt 1.16, amdt 1.17; [A2002-30](#) amdt 3.832
om [A2006-40](#) amdt 2.182
ins [A2010-13](#) amdt 1.31

Receivers

s 34A ins [A1993-91](#) s 15
sub [A2002-30](#) amdt 3.833
om [A2006-40](#) amdt 2.182

Habeas corpus and prerogative orders

s 34B ins [A1993-91](#) s 15
am [A2002-30](#) amdt 3.834
sub [A2006-40](#) amdt 2.183

Rules of practice and procedure—judicial discretion

s 35 (prev s 27) sub [Cwlth Act 1957 No 34](#)
am [Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) s 15; [A2002-30](#) amdt 3.835
om [A2006-40](#) amdt 2.184

Endnotes

4 Amendment history

Rules of court

s 36 (prev s 28) am [Cwlth Act 1950 No 80](#); [Cwlth Act 1957 No 34](#); [Cwlth Act 1968 No 156](#); [Cwlth Act 1971 No 98](#); [Cwlth Act 1973 No 216](#); [Cwlth Act 1976 No 158](#); [Ord1978-3](#); [Cwlth Act 1981 No 92](#); [Ord1982-26](#); [Cwlth Act 1986 No 168](#); [Cwlth Act 1988 No 99](#); [Cwlth Act 1988 No 108](#)
mod [Cwlth SR 1989 No 3](#) (as am [SR Ord1989-52](#)) (exp 1 July 1992)
am [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 16, sch 2; [A1997-96](#) sch 1; [A1999-66](#) sch 3; [A2001-54](#) s 11, s 12; [A2002-30](#) amdt 3.836, amdt 3.837
om [A2009-44](#) amdt 1.35

Fees and charges—determination

s 37 (prev s 29) om [Cwlth Act 1959 No 51](#)
ins [Ord1978-3](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1994-3](#) s 4
am [A1997-96](#) sch 1; [A1999-66](#) sch 3; [A2001-44](#) amdts 1.3957-1.3959
om [A2004-60](#) amdt 1.645

Fees and charges—payment

s 37A ins [A1994-3](#) s 4
am [A2001-44](#) amdt 1.3960; [A2002-30](#) amdt 3.838
om [A2004-60](#) amdt 1.645

Fees and charges—remission, refund, deferral, waiver and exemption

s 37B ins [A1994-3](#) s 4
am [A1994-45](#) sch; [A1995-46](#) sch; [A1997-58](#) sch 1; [A1997-83](#) s 34; [A1999-64](#) sch 2; [A1999-66](#) sch 3; [A1999-91](#) sch 2; [A2002-30](#) amdts 3.839-3.843
om [A2004-60](#) amdt 1.645

Fees and charges—recovery if otherwise not payable

s 37C ins [A1994-3](#) s 4
om [A2004-60](#) amdt 1.645

Fees and charges—review of decisions

s 37D ins [A1994-3](#) s 4
am [A1999-66](#) sch 3
om [A2004-60](#) amdt 1.645

Court of Appeal

pt 2A hdg orig pt 2A hdg renum as pt 2B hdg
ins [A2001-54](#) s 13

Appellate jurisdiction

s 37E orig s 37E renum as s 37T
ins [A2001-54](#) s 13
am [A2001-63](#) s 72, s 73 (s 72, s 73 om [A2002-49](#) amdt 3.52
before commencement); [A2006-40](#) amdts 2.185-2.188;
[A2008-42](#) s 21; [A2015-10](#) s 46, s 47; [A2016-36](#) s 4

Appointment of President

s 37F orig s 37F renum as s 37U
ins [A2001-54](#) s 13
om [A2015-10](#) s 48

Arrangement of business of Court of Appeal

s 37G orig s 37G renum as s 37V
ins [A2001-54](#) s 13
om [A2015-10](#) s 48

Appeal bench

s 37H orig s 37H renum as s 37W
ins [A2001-54](#) s 13
am [A2006-40](#) amdt 2.189, amdt 2.190; [A2015-10](#) s 49

Presiding judge

s 37I orig s 37I renum as s 37X
ins [A2001-54](#) s 13

Appeal court constituted by single judge

s 37J ins [A2001-54](#) s 13
am [A2005-43](#) amdt 1.35, amdt 1.36; [A2006-40](#) amdt 2.190,
amdt 2.191

Decision-making

s 37K ins [A2001-54](#) s 13

Appeal judge unable to continue sitting

s 37L ins [A2001-54](#) s 13

Reserved judgments

s 37M ins [A2001-54](#) s 13

Evidence on appeal

s 37N ins [A2001-54](#) s 13
am [A2003-48](#) amdt 2.19, amdt 2.20; [A2015-40](#) amdt 1.19

Orders on appeal

s 37O hdg sub [A2006-40](#) amdt 2.192
s 37O ins [A2001-54](#) s 13
am [A2002-40](#) amdt 3.40; pars renum R13 LA (see [A2002-40](#)
amdt 3.41); [A2006-40](#) amdts 2.193-2.201; [A2008-42](#) s 22;
ss renum R29 LA

Endnotes

4 Amendment history

New trials

s 37P ins [A2001-54](#) s 13

Bail time on appeal does not count towards sentence

s 37Q hdg sub [A2006-23](#) amdt 1.290

s 37Q ins [A2001-54](#) s 13

Reference appeal in relation to proceeding

s 37S hdg sub [A2008-42](#) s 23

s 37S ins [A2001-54](#) s 13

am [A2008-42](#) ss 24-28; [A2011-30](#) amdt 1.12

Remuneration, allowances and other entitlements of judges

pt 2B hdg (prev pt 2A hdg) ins [A1998-72](#) s 5

renum [A2001-54](#) amdt 1.18

sub [A2002-30](#) amdt 3.844

Meaning of *entitlements*

s 37T (prev s 37E) ins [A1998-72](#) s 5

renum [A2001-54](#) amdt 1.23

Resident judges

s 37U (prev s 37F) ins [A1998-72](#) s 5

am [A2001-54](#) amdts 1.19-1.21

renum [A2001-54](#) amdt 1.23

am [A2002-30](#) amdt 3.845; [A2004-2](#) amdts 1.50-1.53;

[A2005-43](#) amdts 1.37-1.40

sub [A2006-43](#) s 4

am [A2008-37](#) amdt 1.448; [A2015-52](#) s 45, s 46

Indemnity for superannuation surcharge levy

s 37UA ins [A2006-43](#) s 4

Salary of former President

s 37UB ins [A2006-43](#) s 4

om [A2015-10](#) s 50

Entitlements of acting judges

s 37V (prev s 37G) ins [A1998-72](#) s 5

am [A2001-54](#) amdt 1.22

renum [A2001-54](#) amdt 1.23

sub [A2005-43](#) amdt 1.41

Dual appointments

s 37W (prev s 37H) ins [A1998-72](#) s 5

renum [A2001-54](#) amdt 1.23

Accrual and appropriation

s 37X (prev s 37I) ins [A1998-72](#) s 5

renum [A2001-54](#) amdt 1.23

-
- The master**
pt 3 hdg prev pt 3 hdg om [Cwlth Act 1959 No 51](#)
ins [Cwlth Act 1988 No 38](#)
- The master**
s 38 (prev s 30) om [Cwlth Act 1959 No 51](#)
ins [Cwlth Act 1988 No 38](#)
renum (Cwlth) [Cwlth Act 1992 No 49](#)
- Functions of master**
s 39 (prev s 31) om [Cwlth Act 1959 No 51](#)
ins [Cwlth Act 1988 No 38](#)
am [Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2
sub [A2002-30](#) amdt 3.846
- Appointment of master**
s 40 (prev s 32) om [Cwlth Act 1959 No 51](#)
ins [Cwlth Act 1988 No 38](#)
am [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 17; [A1997-96](#) sch 1; [A2002-30](#) amdt 3.847,
amdt 3.848
- Requirements of appointment—master**
s 40A ins [A2009-37](#) s 8
- Term of appointment of master**
s 41 (prev s 33) om [Cwlth Act 1959 No 51](#)
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- Extension of master's term of appointment**
s 41A ins [A1993-91](#) s 19
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s 41B ins [A1993-91](#) s 19
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- Holding other offices**
s 41C ins [A1993-91](#) s 19
- Oath or affirmation of office—master**
s 42 (prev s 33A) ins [Cwlth Act 1988 No 38](#)
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am [A2002-30](#) amdts 3.852-3.854

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Resignation

s 43 (prev s 33C) ins [Cwlth Act 1988 No 38](#)
am [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)

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s 44 (prev s 33D) ins [Cwlth Act 1988 No 38](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1994-10](#) s 11 (2); [A2009-19](#) s 68

Master to be known as associate judge

s 45 (prev s 33F) ins [Cwlth Act 1988 No 38](#)
am [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1994-10](#) s 11 (3); [A2001-44](#) amdt 1.3961, amdt 1.3962
om [A2002-30](#) amdt 3.855
ins [A2015-10](#) s 51

Appointment

s 46 (prev s 34) am [Cwlth Act 1957 No 34](#)
sub [Cwlth Act 1964 No 109](#)
am [Cwlth Act 1971 No 98](#); [Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 20, sch 2; [A2002-30](#) amdt 3.856

Acting appointments

s 46A ins [A1993-91](#) s 21
om [A2002-30](#) amdt 3.857

Staff assisting registrar

s 46B ins [A1994-38](#) sch 1 pt 75

Functions of registrar and deputy registrars

s 47 (prev s 35) sub [Cwlth Act 1957 No 34](#)
am [Cwlth Act 1968 No 156](#); [Cwlth Act 1983 No 91](#); [Cwlth Act 1988 No 38](#); [Cwlth Act 1988 No 109](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2; [A2002-30](#) amdt 3.858
am [A2004-60](#) amdt 1.646

Oath or affirmation of office—registrar

s 48 (prev s 35AA) ins [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2; [A2001-7](#) s 6
am [A2002-30](#) amdts 3.859-3.861

Proceedings before registrar in relation to winding-up of companies

s 49 (prev s 35A) ins [Cwlth Act 1968 No 156](#)
am [Cwlth Act 1988 No 38](#); [Cwlth Act 1991 No 136](#)
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am [A1993-91](#) sch 2; [A2002-30](#) amdts 3.862-3.864
om [A2006-40](#) amdt 2.202

Access to details of address

s 49A ins [A2003-2](#) s 78
am [A2007-8](#) amdt 1.20
om [A2010-21](#) amdt 1.24

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s 50 (prev s 36) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2

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pt 6 hdg om [Cwlth Act 1976 No 158](#)

Deputy sheriffs

s 51 orig s 51 am [Cwlth Act 1955 No 36](#); [Cwlth Act 1957 No 34](#);
[Cwlth Act 1966 No 93](#); [Cwlth Act 1968 No 156](#)
om [Cwlth Act 1976 No 158](#)
(prev s 37) renum [Cwlth Act 1992 No 49](#)
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Process of court if sheriff or deputy sheriff is interested party

s 52 orig s 52 sub [Cwlth Act 1964 No 109](#)
om [Cwlth Act 1976 No 158](#)
(prev s 37A) ins [Cwlth Act 1964 No 109](#)
am [Cwlth Act 1988 No 109](#)
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sub [A1993-91](#) sch 2
am [A2002-30](#) amdt 3.866

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s 53 (prev 37B) ins [Cwlth Act 1992 No 49](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) s 22, sch 2
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Entry, search and seizure—sheriff's powers

s 53A ins [A1998-6](#) s 4
am [A2001-54](#) amdt 1.24; [A2002-30](#) amdt 3.868
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How evidence is to be given

s 54 hdg sub [A2002-30](#) amdt 3.869
s 54 (prev s 38) sub [Cwlth Act 1971 No 98](#)
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am [A1993-91](#) sch 2; [A2002-30](#) amdt 3.870
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om [A2006-40](#) amdt 2.202

Evidence by affidavit

s 55 (prev s 39) am [Cwlth Act 1957 No 34](#)
sub [Cwlth Act 1971 No 98](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A1997-96](#) sch 1; [A2002-30](#) amdt 3.871
om [A2006-40](#) amdt 2.202

Hearing of bail applications

s 55A ins [A1999-22](#) s 38
am [A2000-17](#) sch 1; [A2001-54](#) amdt 1.25; [A2002-30](#) amdt
3.872; [A2003-48](#) amdt 2.21

Appearance by legal practitioner

s 56 (prev s 40) sub [Ord1966-8](#)
renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A1997-96](#) sch 1
om [A2006-40](#) amdt 2.202

Orders and commissions for examination of witnesses

s 57 (prev s 41) renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2002-30](#) amdt 3.873, amdt 3.874
om [A2006-40](#) amdt 2.202

Non-appearance or absence of some defendants

s 58 (prev s 42) renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2002-30](#) amdt 3.875, amdt 3.876;
[A2004-60](#) amdt 1.648
reloc to [Court Procedures Act 2004](#) s 66 [A2006-40](#) amdt 2.203

Supreme Court trials—evidence of dead or absent persons

s 58A reloc from [Evidence Act 1971](#) s 73 by [A1999-66](#) sch 3
am [A2002-30](#) amdt 3.877; [A2004-60](#) amdt 1.649; [A2005-20](#)
amdt 3.404; [A2008-44](#) amdt 1.94, amdt 1.95

Amendment of defects

s 59 (prev s 43) renum [Cwlth Act 1992 No 49](#)
sub [A1993-91](#) sch 2; [A2002-30](#) amdt 3.878
reloc to [Court Procedures Act 2004](#) s 67 [A2006-40](#) amdt 2.204

Formal defects to be amended

s 60 orig s 60 om [Cwlth Act 1973 No 216](#)
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Completion of part-heard matters—end of term of office

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s 62 (prev s 45) renum [Cwlth Act 1992 No 49](#)
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s 63 (prev s 46) renum [Cwlth Act 1992 No 49](#)
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s 64 (prev s 47) am [Cwlth Act 1971 No 98](#); [Cwlth Act 1976 No 158](#);
[Ord1982-26](#)
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am [A1993-91](#) sch 2
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s 65 (prev s 48) renum [Cwlth Act 1992 No 49](#)
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am [A2004-60](#) amdt 1.650
reloc to Supreme Court Rules o 1 r 5 by [A2004-60](#) amdt 1.651

Date of process

s 66 (prev s 49) renum [Cwlth Act 1992 No 49](#)
am [A1993-91](#) sch 2; [A2005-60](#) amdt 1.139, amdt 1.140
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[A2005-60](#) amdt 1.141

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s 67 (prev s 50) am [Cwlth Act 1957 No 34](#); [Cwlth Act 1992 No 49](#)
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s 67A ins [A1998-72](#) s 6
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s 68 (prev s 53) sub [Cwlth Act 1957 No 34](#)
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am [A1993-91](#) sch 2; [A2001-44](#) amdt 1.3964

Trial by jury in criminal proceedings

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s 68B ins [A1993-59](#) s 6
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Alternative verdict—summary offences 68G ins [A2009-24](#) amdt 1.42**Acquittals**pt 8AA hdg ins [A2016-36](#) s 5**Application—pt 8AA**div 8AA.1 hdg ins [A2016-36](#) s 5**Application—pt 8AA**s 68H ins [A2016-36](#) s 5**Important concepts**div 8AA.2 hdg ins [A2016-36](#) s 5**Definitions—pt 8AA**

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s 69 (prev s 53A) ins [Cwlth Act 1981 No 176](#)
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 reloc to Supreme Court Rules o 42A r 1 by [A2004-60](#)
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s 69C ins [A2010-13](#) amdt 1.32

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s 71 (prev s 55) am [Cwlth Act 1971 No 98](#); [Cwlth Act 1973 No 216](#);
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s 74 (prev s 58) renum [Cwlth Act 1992 No 49](#)
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am [A2002-30](#) amdt 3.886
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s 76 (prev s 59) om [Cwlth Act 1964 No 109](#)
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def **clause** reloc from s 2 [A2001-54](#) amdt 1.3
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def **deputy registrar** am [A1993-91](#) sch 2
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def **deputy sheriff** reloc from s 2 [A2001-54](#) amdt 1.3
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- def **matter** reloc from s 2 [A2001-54](#) amdt 1.3
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- def **suit** reloc from s 2 [A2001-54](#) amdt 1.3
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Endnotes

5 Earlier republications

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. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Cwlth Act 1992 No 49	1 July 1992
2	A1993-94	31 December 1993
3	A1994-60	28 February 1995
4	A1996-26	30 November 1996
5	A1998-72	31 March 1999
6	A2000-17	1 September 2000
7	A2001-88	12 September 2001
8*	A2001-88	30 April 2002
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10	A2001-88	13 September 2002
11	A2002-30	17 September 2002
12	A2002-30	14 October 2002
13	A2002-40	1 November 2002
14	A2002-49	17 January 2003
14 (RI)	A2002-49 ‡	19 February 2003
15	A2003-2	31 March 2003
16	A2004-2	22 March 2004
17	A2004-2	30 April 2004
18*	A2004-60	10 January 2005
19	A2005-20	2 June 2005
20	A2005-43	1 October 2005
21	A2005-60	22 December 2005

Republication No	Amendments to	Republication date
22	A2005-60	28 February 2006
23	A2006-23	2 June 2006
24	A2006-25	1 July 2006
25	A2006-40	29 September 2006
26*	A2006-43	25 October 2006
27	A2007-8	10 November 2007
28	A2008-44	2 February 2009
29	A2008-44	8 March 2009
30	A2008-44	30 May 2009
31	A2009-24	4 September 2009
32	A2009-24	29 September 2009
33	A2009-37	22 October 2009
34*	A2009-44	22 December 2009
35	A2010-13	28 April 2010
36	A2010-13	31 May 2010
37	A2010-21	1 July 2010
38	A2010-40	2 November 2010
39	A2011-20	7 July 2011
40	A2011-30	31 August 2011
41	A2011-48	1 March 2012
42	A2012-29	13 August 2012
43	A2013-12	24 April 2013
44	A2014-1	2 April 2014
45	A2015-10	21 April 2015
46	A2015-35	2 October 2015
47	A2015-52	10 December 2015
48	A2015-40	4 May 2016
49	A2016-36	23 June 2016

‡ includes retrospective amendments by [A2002-49](#)

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