

Australian Capital Territory

Judiciary (Stay of Proceedings) Act 1933 No 36

Republication No 2

Republication date: 31 July 2002

Act not amended up to this date

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Judiciary (Stay of Proceedings) Act 1933* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 31 July 2002. It also includes any amendment, repeal or expiry affecting the republished law.

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

Kinds of republications

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

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

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

Editorial changes

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

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

Uncommenced provisions and amendments

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

Modifications

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

Penalties

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

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

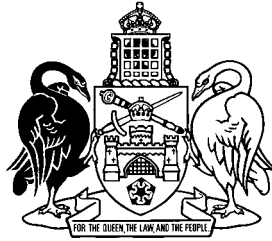


Australian Capital Territory

Judiciary (Stay of Proceedings) Act 1933

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Australian Capital Territory

Judiciary (Stay of Proceedings) Act 1933

An Act relating to the jurisdiction and the execution of the process of the courts of the ACT

1 Name of Act

This Act is the *Judiciary (Stay of Proceedings) Act 1933*.

2 Meaning of court

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

court means any court having jurisdiction in or in relation to the ACT.

3 Stay of proceedings

- (1) If it is shown to the satisfaction of a court that a person, against whom any proceeding has been begun in the court for the payment of a sum of money—

- (a) has suffered a loss; or
- (b) is in the circumstances;

that a judgment given or an order made for the immediate payment of the sum of money or any substantial part of it would entail serious hardship, the court may, at any time before judgment is given or an order is made in the proceeding, on the application of that person, in its discretion, if in all the circumstances it considers it desirable so to do, direct a stay of proceedings or further proceedings until the time and on the conditions that the court considers appropriate.

- (2) An application made under the subsection (1) shall not be taken or construed as an admission of liability by the applicant.

4 Stay of execution

- (1) If it is shown to the satisfaction of a court that a person, against whom the court has given judgment or made an order for the payment of a sum of money—

- (a) has suffered such a loss; or
- (b) is in such circumstances;

that the immediate payment of the whole or any part of the sum will entail serious hardship, the court may, at the time of giving the judgment or the making of the order, or subsequently, on the application of the person adjudged or ordered to pay the sum of money, in its discretion, if in all the circumstances it considers it desirable so to do, order that the payment of the whole or part of the sum shall be deferred until the time and on the conditions that the court considers appropriate.

- (2) An application under this section shall operate as a stay of proceedings on the judgment or order until the hearing of the application.

5 Rescission or variation of previous direction or order

- (1) A court may, on the application of any party, rescind or vary any direction or order previously made by it under this Act.
- (2) An application under this section shall be made by summons directed to the other party.
- (3) The summons shall be served personally, at least 7 days before the date appointed in the summons for the hearing of it, on the party to whom it is directed.
- (4) However, if it appears to the court that personal service cannot be effected, it may make any order for substituted or other service or for the substitution for service of notice by advertisement or otherwise that the court considers just.
- (4) In this section:

party means party to the proceeding in connection with which the direction or order was made.

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

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

The endnotes also include a table of earlier republications.

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

2 Abbreviation key

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

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Judiciary (Stay of Proceedings) Ordinance 1933* No 36 (Cwlth).

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

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on its conversion to an ACT enactment on 1 July 1990.

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

Judiciary (Stay of Proceedings) Act 1933 No 36

notified 7 December 1933

commenced 7 December 1933

4 Earlier republications

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

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

Republication No	Amendments to	Republication date
1	not amended	30 June 1991

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