



Australian Capital Territory

Court Procedures Act 2004

A2004-59

Republication No 41

Effective: 10 December 2015 – 29 February 2016

Republication date: 10 December 2015

Last amendment made by [A2015-52](#)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Court Procedures Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 December 2015. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 10 December 2015.

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, 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

Court Procedures Act 2004

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
3	Dictionary 2
4	Notes 2
5	Objects of Act 2
5A	Main purpose of civil procedure provisions 3
Part 2	Court rules and forms
6	Definition for pt 2 and sch 1 5
7	Rule-making power 5
8	Approved forms 6
9	Rule-making committee 6
10	Delegation by Chief Justice and Chief Magistrate 7
11	Advisory committee 8

R41	Court Procedures Act 2004	contents 1
10/12/15	Effective: 10/12/15-29/02/16	

	Page
Part 2A	Principal registrar of courts
11A	Appointment of principal registrar 10
11B	Administrative functions of principal registrar 10
11C	Ending principal registrar's appointment 11
11D	Principal registrar not to direct registrars in relation to court functions 12
Part 3	Court and tribunal fees
Division 3.1	Fees generally
12	Definitions—pt 3 13
13	Determination of fees 13
14	Payment of fees 14
15	Remission, refund, deferral, waiver and exemption of fees 15
16	Recovery of fees in civil proceedings if fees not otherwise payable 17
17	Recovery of fees in criminal proceedings if fees not otherwise payable 18
Division 3.2	Review of decisions—fees
18	Meaning of <i>reviewable decision</i> —div 3.2 18
18A	Reviewable decisions—court 19
18B	Reviewable decisions—ACAT 20
18C	No fee for review by court or ACAT 21
Part 4	Crown proceedings
Division 4.1	Preliminary
20	Definitions—pt 4 22
Division 4.2	Proceedings by and against Crown generally
21	Proceedings by and against the Crown generally 22
22	Immunities and limitations of liability 23
23	Corresponding laws of States and other Territories 23
24	Injunctive relief 23
25	Protection of confidentiality on grounds of public interest 23
26	Right of Attorneys-General of other jurisdictions to appear in proceedings 24
27	Right of Attorney-General to intervene in proceedings 24
28	Fees and charges in proceedings 25
29	Enforcement of judgments against Territory Crown 26

	Page
30	Enforcement of judgments against Crown in right of a State or another Territory 27
31	Enforcement of judgments by the Crown 27
Division 4.3 Provisions applying only to the Territory	
32	Endorsement etc of originating process 27
33	Service generally 28
34	Service of subpoenas etc on Ministers 28
35	Representation if right to legal representation restricted 29
Division 4.4 Other provisions	
36	Exclusion of certain proceedings 30
37	Regulations for pt 4 30
Part 5 Court security	
40	Definitions—pt 5 31
41	Right of entry etc to court premises 33
42	Powers under part additional to other powers 34
43	Security officer to be identified before exercising powers 34
44	Person may be required to state name etc 35
45	Searches 36
46	Seizure and forfeiture of firearms etc 37
47	Security officer may require thing that may hide firearms etc to be left 37
48	Unlawful, disorderly conduct etc 37
49	Contravention of requirement of security officer 38
50	Judge, magistrate or presidential member may close court premises 39
51	Security officers 40
52	Identity cards for security officers 42
Part 6 Procedural provisions—all proceedings	
53	Application—pt 6 43
54	No distinction between court and chambers 43
Part 6A Procedural provisions—criminal proceedings	
55	Provision of interpreters 44

	Page
Part 7	Procedural provisions—civil proceedings
60	Application—pt 7 45
61	Counterclaims and third parties 45
62	Injunctions 46
63	Receivers 46
64	Rules of practice and procedure—judicial discretion 46
65	Appearance by lawyer 47
66	Non-appearance or absence of some defendants 47
67	Amendment of defects 47
68	Formal defects to be amended 48
Part 7A	Procedural provisions—proceedings involving children or young people
Division 7A.1	General
68A	Definitions—pt 7A and div 7A.1 49
69	Childrens Court procedure 49
71	When parents must attend court proceedings 50
72	Court proceedings involving children or young people not open to public 51
73	Court may excuse parties from attending proceedings 53
74	Certain related applications may be heard together 53
74A	Participation of children and young people in proceedings 53
74B	Court must ensure children and young people etc understand proceedings 54
74C	Director-general and public advocate etc may appear at proceedings 54
74D	Court may order report about young person 55
74E	Children and young people may have legal and other representative 55
74F	Leave needed for litigation guardian 56
74G	Legal representation of children and young people 56
74H	Orders about legal representation of children and young people—all proceedings 56
74I	Rule-making committee and court to have regard to youth justice principles 57
Division 7A.2	Care and protection considerations in proceedings
74K	Proceedings dismissed or adjourned for care and protection reasons 58

	Page
74L Director-general must report to court and public advocate	59
74M Court action after adjournment	60
Part 7B Procedural provisions—industrial or work safety matters	
74N Industrial Court procedure	61
Part 8 Supreme Court—criminal proceedings	
Division 8.1 Supreme Court criminal proceedings—preliminary	
75 Application—pt 8	62
Division 8.2 Trial on indictment	
76 Supreme Court jurisdiction to make orders for conduct of indictable trials	62
Division 8.3 Pre-trial disclosure of expert evidence	
77 Application—div 8.3	63
78 Mandatory pre-trial disclosure—expert evidence	64
79 Prosecution notice—expert evidence	65
79A Accused person's notice and reply—expert evidence	65
79B Prosecution reply—expert evidence	67
79C Sanctions for non-compliance with pre-trial disclosure requirements	67
79D Disclosure requirement is ongoing	68
79E Court may waive requirements	69
79F Miscellaneous provision	69
Part 9 Miscellaneous	
80 Assignment of earnings not enforceable	70
81 Court may inquire into truth of return of writ	70
82 Delegation by secretary of rule-making committee	71
83 Regulation-making power	71
Schedule 1 Subject matter for rules	72
Part 1.1 General	72
1 Jurisdiction	72
2 Service of documents	72

Contents

	Page
3 Evidence	72
4 Certain proceedings	73
5 Admission of lawyers	73
6 Miscellaneous	73
Part 1.2 Civil proceedings	75
7 Beginning proceedings	75
8 Transfer between courts	75
9 Parties and proceedings	75
10 Steps in proceedings	76
11 Pleadings	76
12 Disclosure	76
13 Preservation of rights and property	76
14 Ending proceedings early	77
15 Court supervision	77
16 Expert evidence	77
17 Trials and other hearings	78
18 Judgments	78
19 Particular proceedings	79
20 Interest	79
21 Administration and probate	79
22 Adoption	80
23 Arbitration	80
24 Contempt of court	80
25 Trusts	80
26 Costs	80
27 Appeals	80
28 Enforcement of judgments	81
29 Reciprocal enforcement of foreign judgments	81
Part 1.3 Criminal proceedings	82
30 Practice and procedure in criminal jurisdiction	82

Dictionary	Page
	83
Endnotes	
1 About the endnotes	86
2 Abbreviation key	86
3 Legislation history	87
4 Amendment history	93
5 Earlier republications	114



Australian Capital Territory

Court Procedures Act 2004

An Act to provide for certain matters relating to courts and tribunals, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Court Procedures Act 2004*.

3 Dictionary

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

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*fee*, for part 3 (Court and tribunal fees)—see section 12.’ means that the term ‘fee’ is defined in that section for part 3.

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](#), s 155 and s 156 (1)).

4 Notes

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

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

5 Objects of Act

- (1) The objects of this Act include—
 - (a) recognising the importance of court procedures in our system of justice; and

- (b) facilitating cooperation between ACT courts in the common goals of—
 - (i) improved access to justice through the development of procedures that are, as far as practicable, the same for all ACT courts; and
 - (ii) better court procedures.
- (2) In this section:
court includes a tribunal that is a prescribed tribunal under section 6.

5A Main purpose of civil procedure provisions

- (1) The main purpose of the civil procedure provisions is to facilitate the just resolution of disputes—
 - (a) according to law; and
 - (b) as quickly, inexpensively and efficiently as possible.
- (2) Without limiting subsection (1), the main purpose includes the following objectives:
 - (a) the just resolution of the real issues in civil proceedings;
 - (b) the efficient use of court resources, including administrative resources;
 - (c) the efficient disposal of a court's overall caseload;
 - (d) the timely disposal of civil proceedings;
 - (e) the resolution of disputes at a cost that is proportionate to the importance and complexity of the matters in dispute.
- (3) The civil procedure provisions must be interpreted and applied, and any power or duty imposed by them (including the power to make rules) must be exercised or carried out, in the way that best promotes the main purpose.

(4) The parties to a civil proceeding must help the court to achieve the objectives.

(5) In this section:

civil procedure provisions means—

- (a) the rules made under section 7, in their application to civil proceedings; and
- (b) any provision of this Act in relation to the practice and procedure of a court in civil proceedings.

court includes a tribunal that is a prescribed tribunal under section 6.

Part 2 Court rules and forms

6 Definition for pt 2 and sch 1

In this part and schedule 1:

prescribed tribunal means a tribunal prescribed by regulation for this part.

7 Rule-making power

- (1) The rule-making committee may make rules in relation to the following:
 - (a) the practice and procedure of ACT courts, prescribed tribunals and their registries;
 - (b) anything else mentioned in schedule 1 (Subject matter for rules).

Note 1 The power to make rules for a court or tribunal includes power to make rules in relation to any matter necessary or convenient to be prescribed for carrying out or giving effect to the jurisdiction of the court or tribunal under any law of the Territory or Commonwealth that authorises or requires anything to be done in or in relation to the court or tribunal (see [Legislation Act](#), s 45 (Power to make court rules)).

Note 2 A rule must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A rule is taken to be made by the rule-making committee if it is signed by 3 or more committee members, 1 of whom must be the member mentioned in section 9 (2) (a) and another of whom must be the member mentioned in section 9 (2) (d) or (e).
- (3) This section does not limit any inherent or other power of a court, judge, magistrate or prescribed tribunal to control proceedings.

8 Approved forms

- (1) The rule-making committee may approve forms—
 - (a) for this Act; or
 - (b) for use in or in relation to ACT courts, prescribed tribunals and their registries.
- (2) If the rule-making committee approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) A form is taken to be approved by the rule-making committee if it is approved by 3 or more committee members, 1 of whom must be the member mentioned in section 9 (2) (a) and another of whom must be the member mentioned in section 9 (2) (d) or (e).
- (4) An approved form is a notifiable instrument.

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

9 Rule-making committee

- (1) A rule-making committee is established.
- (2) The rule-making committee consists of the following members:
 - (a) the Chief Justice;

Note The Chief Justice may delegate this function to a resident judge (see s 10).

- (b) a resident judge appointed by the Chief Justice;

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

- (c) another resident judge appointed by the Chief Justice or, if no appointment is made, the associate judge;

(d) the Chief Magistrate;

Note The Chief Magistrate may delegate this function to a magistrate (see s 10).

(e) another magistrate appointed by the Chief Magistrate.

- (3) The rule-making committee may conduct its proceedings in the way it decides, whether by holding meetings or in any other way.
- (4) The Chief Justice is the chairperson of the rule-making committee.
- (5) However, if the Chief Justice is not personally present at a meeting of the rule-making committee, the member present chosen by the committee is to chair the meeting.
- (6) The Chief Justice must approve a public servant as secretary of the rule-making committee.

10 Delegation by Chief Justice and Chief Magistrate

- (1) The Chief Justice may delegate a function under this part to a resident judge.
- (2) The Chief Magistrate may delegate a function under this part to a magistrate.
- (3) However, the Chief Justice or the Chief Magistrate may not delegate the function of being a member of the rule-making committee to a person who is already a member of the committee because of an appointment under section 9 (2).

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4. In particular, the delegation may have effect only in stated circumstances, eg if the appointer is away from the ACT.

11 Advisory committee

- (1) An advisory committee is established.
- (2) The advisory committee consists of the following members:
 - (a) a resident judge appointed by the Chief Justice;
Note For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.
 - (b) the associate judge;
 - (c) 2 magistrates appointed by the Chief Magistrate;
 - (d) the principal registrar;
 - (e) the registrar of the Supreme Court;
 - (f) the registrar of the Magistrates Court;
 - (g) a presidential member of the ACAT appointed by the general president of the ACAT;
 - (h) a person appointed by the Australian Capital Territory Bar Association to represent the association;
 - (i) a person appointed by the Law Society of the Australian Capital Territory to represent the society;
 - (j) the director of public prosecutions;
 - (k) the parliamentary counsel;
 - (l) a public servant appointed by the director-general;
 - (m) the secretary of the rule-making committee.
- (3) The functions of the advisory committee are to—
 - (a) initiate, consider, develop, and advise the rule-making committee on, proposals for making rules and approving forms under this Act; and

- (b) make recommendations to the rule-making committee about the making of rules and approving of forms under this Act.
- (4) The advisory committee must consider, and advise the rule-making committee on, proposals for making rules and approving forms under this Act that are referred to it by the rule-making committee.
- (5) The advisory committee may conduct its proceedings in the way it decides, whether by holding meetings or in any other way.
- (6) The resident judge mentioned in subsection (2) (a) is the chairperson of the advisory committee.
- (7) However, if the resident judge is not present at a meeting of the advisory committee, the associate judge is to chair the meeting if present at the meeting.
- (8) Also, if the resident judge and the associate judge are not present at a meeting of the advisory committee, the member present chosen by the committee is to chair the meeting.

Part 2A Principal registrar of courts

11A Appointment of principal registrar

- (1) The Executive must appoint a person as the Principal Registrar and Chief Executive Officer of ACT Courts and Tribunals (the *principal registrar*).

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) However, the Executive must not appoint a person as the principal registrar—
- (a) without first considering any recommendation about the appointment made by the Chief Justice, the Chief Magistrate and the general president of the ACAT; and
 - (b) unless satisfied that the person has the experience or expertise to qualify the person to exercise the functions of the principal registrar.
- (3) The principal registrar must be appointed for a term of not longer than 5 years.

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

- (4) The appointment of a principal registrar is a notifiable instrument.

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

11B Administrative functions of principal registrar

- (1) The function of the principal registrar is to support—
- (a) the Chief Justice in the exercise of an administrative function of the Supreme Court; and

- (b) the Chief Magistrate in the exercise of an administrative function of the Magistrates Court; and
 - (c) the general president of the ACAT in the exercise of an administrative function of the ACAT.
- (2) For subsection (1), the principal registrar may do the following:
- (a) exercise the powers of the head of service relating to the appointment, engagement and employment of a person employed to assist a registrar;
- Note* **Registrar**—see the [Legislation Act](#), dictionary, pt 1.
- (b) direct a public employee in relation to the exercise of an administrative function of a court or the ACAT;
 - (c) make arrangements with the director-general to use the services of a public servant or Territory facilities;
 - (d) make arrangements about the use and allocation of resources and facilities;
 - (e) exercise any other function given to the principal registrar under this Act or another Territory law.

11C Ending principal registrar's appointment

The Executive may end the principal registrar's appointment if the principal registrar—

- (a) becomes bankrupt or personally insolvent; or
- (b) is convicted, or found guilty, in the ACT of an offence punishable by imprisonment for at least 1 year; or

Note **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

- (c) is convicted, or found guilty, outside the ACT of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or

- (d) for physical or mental incapacity, if the incapacity affects the principal registrar's ability to exercise a function.

11D Principal registrar not to direct registrars in relation to court functions

- (1) A registrar or deputy registrar of a court is not subject to direction by the principal registrar in the exercise of a function of the court.
- (2) A registrar or deputy registrar of the ACAT is not subject to direction by the principal registrar in the exercise of a function of the ACAT.

Part 3 **Court and tribunal fees**

Division 3.1 **Fees generally**

12 **Definitions—pt 3**

In this part:

determined fee means a fee determined under this part.

fee includes a charge and a tax.

relevant legislation means any of the following:

- (a) the *ACT Civil and Administrative Tribunal Act 2008*;
- (b) the *Coroners Act 1997*;
- (c) this Act;
- (d) the *Crimes (Sentence Administration) Act 2005*;
- (e) the *Leases (Commercial and Retail) Act 2001*;
- (f) the *Magistrates Court Act 1930*;
- (g) the *Supreme Court Act 1933*;
- (h) any other legislation prescribed by regulation.

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

13 **Determination of fees**

- (1) The Minister may determine fees for any of the following purposes:
 - (a) proceedings in a court or the ACAT, and matters incidental to the proceedings, including—
 - (i) for the Supreme Court—the admission of lawyers; and

- (ii) the service and execution of the process of a court or the ACAT; and
- (iii) the assessment of costs;
- (b) facilities and services provided by the court or the ACAT, including the service and execution of the process of a court of the Commonwealth, a State, another Territory or a foreign country;
- (c) the general purposes of relevant legislation.

Note 1 The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees and charges (see pt 6.3).

Note 2 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](#), s 104).

- (2) A determination under subsection (1) may provide for any of the following matters:
 - (a) exempting people from liability to pay determined fees, completely or partly, in all or particular circumstances;
 - (b) remitting, refunding or waiving, by a registrar of a court or the ACAT, determined fees, completely or partly, in particular circumstances;
 - (c) deferring, by a registrar of a court or the ACAT, liability to pay determined fees, completely or partly, in particular circumstances.
- (3) A determination under subsection (1) is a disallowable instrument.

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

14 Payment of fees

- (1) A determined fee is payable, in advance, in accordance with the determination that determined the fee, but subject to this section.

- (2) A determined fee is payable on notice from the registrar of the court or ACAT if it is worked out by reference to expenses actually incurred in exercising the function, or in providing the facility or service, for which the fee is payable.

15 Remission, refund, deferral, waiver and exemption of fees

- (1) A determined fee may be remitted or refunded, or liability for its payment deferred, in accordance with the determination that determined the fee.
- (2) A determined fee is not payable—
- (a) if the person otherwise liable to pay the fee or charge is—
 - (i) exempt from liability to pay the fee under the determination that determined the fee; or
 - (ii) exempt from paying the fee under the *Legal Aid Act 1977*, section 93 (1) (Exemption from fees and taxes); or
 - (iii) legally assisted under a scheme or service provided or approved by the Attorney-General; or
 - (b) if the registrar of the court or ACAT waives payment by a person of the fee completely or partly because the registrar considers that payment of the fee would impose hardship on the person—to the extent of the waiver; or
 - (c) for lodging a document, or for the service and execution of process, in relation to a proceeding in the Supreme Court—
 - (i) in a criminal matter, including an appeal; or
 - (ii) under the *Coroners Act 1997*; or
 - (iii) under the *Legal Profession Act 2006*, chapter 4 (Complaints and discipline); or

- (iv) under any of the following Acts:
 - (A) the *Adoption Act 1993*;
 - (B) the *Children and Young People Act 2008*;
 - (C) the *Domestic Violence and Protection Orders Act 2008*;
 - (D) the *Guardianship and Management of Property Act 1991*;
 - (E) the *Mental Health (Treatment and Care) Act 1994*;
 - (F) the *Testamentary Guardianship Act 1984*;
- (v) on appeals in relation to the following matters:
 - (A) a matter under the *Children and Young People Act 2008*;
 - (B) a matter under the *Mental Health (Treatment and Care) Act 1994*;
 - (C) a decision of the ACAT in relation to an application under the *Guardianship and Management of Property Act 1991*; or
- (vi) on a matter that has been remitted to the court by the High Court under the *Judiciary Act 1903* (Cwlth), section 44; or
- (vii) in relation to which a convention to which Australia is a party provides that a fee is not to be payable; or
- (viii) on an application to the court for an extension of the time within which a proceeding may be begun; or
- (ix) on an application mentioned in the *Juries Act 1967*, section 24 (10), section 26A (2) or section 51A (3); or

- (d) for the laying of an information in the Magistrates Court—
 - (i) by the director of public prosecutions acting in the exercise of an official function under a territory law; or
 - (ii) by a police officer acting in the exercise of an official function under a territory law; or
- (e) if it is not payable under another provision of this Act or another territory law.

Note The Territory Crown is not liable to pay a determined fee in a civil proceeding (see s 28 (Court fees and charges)).

- (3) This section is subject to section 16 and section 17.

16 Recovery of fees in civil proceedings if fees not otherwise payable

- (1) This section applies in relation to a civil proceeding in the Supreme Court or the Magistrates Court, or an application in the ACAT, between at least 2 parties (the *first party* and the *second party*), if—
 - (a) a filing fee, or a fee for the service and execution of process, otherwise payable by the first party is—
 - (i) not payable, completely or partly, because of the exemption of the first party under this part; or
 - (ii) remitted, refunded or waived, completely or partly, under this part; and
 - (b) judgment is given or entered, or an order is made, in favour of the first party; and
 - (c) the first party's costs are payable by the second party.
- (2) The court or ACAT may order the second party to pay to the registrar of the court or ACAT the amount of the fee exempted, remitted, refunded or waived.

17 Recovery of fees in criminal proceedings if fees not otherwise payable

- (1) This section applies in relation to a criminal proceeding in the Magistrates Court if—
 - (a) the fee (the *information fee*) that would otherwise be payable by the informant for the laying of the information in the proceeding is not payable, completely or partly, under this part; and
 - (b) the defendant is convicted of the offence alleged in the information and ordered to pay a fine.
- (2) If this section applies, the defendant must pay to the registrar of the Magistrates Court, in addition to the fine—
 - (a) if payment of the fee is waived in part under this part—the amount of the fee waived; or
 - (b) in any other case—the information fee.

Division 3.2 Review of decisions—fees

18 Meaning of *reviewable decision*—div 3.2

In this division:

reviewable decision means a decision of a registrar of a court or the registrar of the ACAT mentioned in table 18, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

Table 18 Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 person
1	15 (1)	refuse to remit fee completely or partly	person who paid fee
2	15 (1)	refuse to refund fee completely or partly	person who paid fee
3	15 (1)	refuse to defer liability to pay fee completely or partly	person liable to pay fee
4	15 (2) (b)	refuse to waive fee completely or partly	person liable to pay fee
5	15 (2)	refuse to allow benefit of an exemption to pay fee	person liable to pay fee

18A Reviewable decisions—court

- (1) If the registrar of a court makes a reviewable decision, the registrar must give written notice of the decision to each person mentioned in table 18, column 4 in relation to the decision.
- (2) The notice must tell the person that the person may—
 - (a) apply to the registrar for a statement of reasons for the decision; and
 - (b) apply for review of the decision under this section.

- (3) The entity may apply to the registrar for a statement of reasons for the decision within 28 days after the day when the person is given the notice.
- (4) A person who receives a notice under subsection (1) may apply to the court from which the registrar gave the notice for review of the decision within—
 - (a) 28 days after the day the person is given notice of the decision by the registrar; or
 - (b) if the person applies within the 28-day period for a statement of reasons for the decision—28 days after the day the person is given the statement of reasons.
- (5) For the review, the court—
 - (a) must be constituted by—
 - (i) for the Supreme Court—a judge or the associate judge; or
 - (ii) for the Magistrates Court—a magistrate; and
 - (b) may make the orders the court considers appropriate.

18B Reviewable decisions—ACAT

- (1) If the registrar of the ACAT makes a reviewable decision, the registrar must give a reviewable decision notice to each person mentioned in table 18, column 4 in relation to the decision.

Note 1 The registrar must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.
- (2) The following may apply to the ACAT for review of a reviewable decision by the registrar of the ACAT:
 - (a) a person mentioned in table 18, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

18C No fee for review by court or ACAT

A fee is not payable for an application under this division.

Part 4 Crown proceedings

Division 4.1 Preliminary

20 Definitions—pt 4

In this part:

corresponding law means a law of a State or another Territory that is declared by regulation to be a law that corresponds to this part.

Crown includes a Minister, instrumentality or agency of the Crown and a person prescribed by regulation.

judgment means a judgment or order of a court or the ACAT.

proceeding means a civil proceeding or proceeding before the ACAT.

Territory Crown means the Crown in right of the Territory.

the Territory includes a Minister, instrumentality or agency of the Territory and a person prescribed by regulation.

Division 4.2 Proceedings by and against Crown generally

21 Proceedings by and against the Crown generally

- (1) Subject to this part, any relevant rules of court, the *ACT Civil and Administrative Tribunal Act 2008* and the *Judiciary Act 1903* (Cwlth)—
 - (a) a proceeding may be brought by or against the Crown in the same way as a proceeding between subjects; and
 - (b) the same procedural and substantive law applies to such a proceeding as in a proceeding between subjects.

- (2) Subject to the regulations, a proceeding may be brought by or against the Crown—
- (a) for the Territory Crown—under the name of the ‘Australian Capital Territory’; or
 - (b) in any other case—under the name in which the Crown could sue or be sued in the courts of its own jurisdiction.

- (3) In this section:

proceeding, against the Crown, includes a proceeding to attach earnings or other debts owing or accruing from the Territory Crown to someone else.

22 Immunities and limitations of liability

This division does not affect any immunity from, or limitation on, liability that the Crown enjoys by statute.

23 Corresponding laws of States and other Territories

The corresponding law of each State and other Territory binds the Crown in right of the Australian Capital Territory.

24 Injunctive relief

- (1) Injunctive relief may be granted against the Crown.
- (2) However, subject to the *Administrative Decisions (Judicial Review) Act 1989*, section 17 (1), a mandatory injunction cannot be made against the Crown.

25 Protection of confidentiality on grounds of public interest

This division does not affect any rule of law under which a person may refuse to discover or produce documents, or to answer an interrogatory or other question, on the ground that to do so would be prejudicial to the public interest.

26 Right of Attorneys-General of other jurisdictions to appear in proceedings

- (1) The Attorney-General of the Commonwealth may, on behalf of the Commonwealth, represent the Crown in right of the Commonwealth in any action, proceeding or matter (whether civil or criminal) in which the Crown in right of the Commonwealth is a party.
- (2) The Attorney-General of a State or another Territory may, on behalf of the State or other Territory, represent the Crown in right of the State or other Territory in any action, proceeding or matter (whether civil or criminal) in which the Crown in right of the State or other Territory is a party.

27 Right of Attorney-General to intervene in proceedings

- (1) This section applies if any of the following are in issue in a court proceeding or proceeding before the ACAT:
 - (a) the interpretation or validity of a law of the Territory or Commonwealth;
 - (b) legislative or executive powers of the Territory or Commonwealth, or an instrumentality or agency of the Territory or Commonwealth;
 - (c) judicial powers of a court or tribunal established under the law of the Territory or Commonwealth.
- (2) The Attorney-General may intervene in the proceeding, on behalf of the Crown, to submit argument on the issue.
- (3) If the Attorney-General intervenes in a proceeding under this section, the Attorney-General has the same right of appeal in the proceeding as a party to the proceeding.

(4) If the Attorney-General intervenes in a proceeding under this section, and there are in the opinion of the court or ACAT special reasons for making an order under this subsection, the court or ACAT may make an order for costs against the Crown to reimburse the parties to the proceeding for costs occasioned by the intervention.

(5) In this section:

Attorney-General includes the Attorney-General for the Commonwealth, the Attorney-General for each State and the Attorney-General for each other Territory.

Crown includes the Crown in right of the Commonwealth, the Crown in right of each State and the Crown in right of each other Territory.

28 Fees and charges in proceedings

(1) The Territory Crown is not required to pay any court fee or charge in any proceeding.

(2) Any costs to which the Territory Crown is entitled must be calculated as if the Territory Crown were liable to pay, and had in fact paid, fees and charges from which it is exempt under subsection (1).

(3) In this section:

carries on business does not include imposing or collecting—

- (a) taxes; or
- (b) levies; or
- (c) fees for licences, permits or any other form of authority.

court includes the ACAT.

territory authority means a corporation established under an Act, but does not include a body declared under the *Financial Management Act 1996*, section 3B not to be a territory authority.

Territory Crown does not include a territory authority so far as the authority carries on business.

29 Enforcement of judgments against Territory Crown

- (1) A writ or similar process must not be issued out of any court or the ACAT to enforce a judgment against the Territory Crown.
- (2) If—
 - (a) a final judgment is given against the Territory Crown; and
 - (b) the judgment has not been paid; and
 - (c) the judgment has not been appealed against or stayed (or, if it has, the appeal has been disallowed or discontinued or the stay has been removed); and
 - (d) at least 28 days have elapsed since the judgment was given;the party in whose favour the judgment was given may give a copy of the judgment to the Treasurer.
- (3) If the Treasurer receives a copy of a final judgment under subsection (2), the Treasurer must give directions about how the judgment is to be paid unless the Treasurer is satisfied that the judgment can be, or has been, paid in another way.
- (4) A direction under this section that requires payment of public money of the Territory operates to authorise payment of the money.
- (5) The *Financial Management Act 1996*, section 6 (Necessity for appropriation) does not apply to a payment made in accordance with a direction under this section.

(6) A direction under this section that requires payment of an amount from the funds of a territory authority or instrumentality provides sufficient authority for the payment.

(7) In this section:

Territory Crown—see section 28 (3).

30 Enforcement of judgments against Crown in right of a State or another Territory

(1) A writ or similar process must not be issued out of any ACT court or the ACAT to enforce a judgment against the Crown in right of a State or another Territory.

(2) If a final judgment is given by an ACT court or the ACAT against the Crown in right of a State or another Territory, the court must give a copy of the judgment to the Governor or Administrator of the State or Territory.

31 Enforcement of judgments by the Crown

Subject to this part, any relevant rules of court and the *ACT Civil and Administrative Tribunal Act 2008*, a judgment recovered by the Crown may be enforced in the same way as a judgment in a proceeding between subjects, and not in any other way.

Division 4.3 Provisions applying only to the Territory

32 Endorsement etc of originating process

(1) If a proceeding is brought against the Territory, a statement containing the information prescribed by regulation (if any) must be endorsed on, or annexed to, the process by which the proceeding is begun.

- (2) A failure to comply with subsection (1) does not render a proceeding void unless the court is of the opinion that the Territory has been prejudiced by that failure.

33 Service generally

- (1) Any process or document relating to a proceeding must be served on the Territory by serving the process or document on the chief solicitor.
- (2) However—
- (a) if this part makes special provision about service of the process or document—the process or document must be served in accordance with the special provision; and
 - (b) if the party serving the process or document has notice that a lawyer other than the government solicitor is acting for the Territory in relation to the proceeding—the process or document must be served on that lawyer.

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

34 Service of subpoenas etc on Ministers

- (1) A subpoena or other process issued by a court, tribunal or authority requiring a Minister to appear, in the Minister's official capacity, to give evidence, or to produce documents, must be given to the chief solicitor for service on the Minister.
- (2) The chief solicitor must, on receiving a subpoena or other process mentioned in subsection (1), make reasonable endeavours to serve it on the Minister and must provide proof of service to the court, tribunal or other authority.

- (3) The chief solicitor, if unable to serve a subpoena or other process within a reasonable time, must tell the court, tribunal or other authority of the reasons for not being able to effect service and, in that case, the court, tribunal or other authority may direct that service be effected in some other way.

35 Representation if right to legal representation restricted

- (1) This section applies to a proceeding if—
- (a) the Territory or Attorney-General is a party to the proceeding; and
 - (b) an Act removes or restricts the right of a party to the proceeding to be represented by a lawyer.
- (2) The Territory or Attorney-General may be represented by a public servant (other than a lawyer, articled clerk or person who holds legal qualifications under a territory law or the law of another place) who is authorised to conduct the proceeding on behalf of the Territory or Attorney-General.
- (3) In the proceeding, a document apparently signed by a relevant person that appears to be an authorisation under subsection (2) must be accepted as an authorisation in the absence of evidence to the contrary.
- (4) In this section:
- relevant person* means—
- (a) a Minister; or
 - (b) a director-general; or
 - (c) the chief executive officer of a territory agency or instrumentality.

Division 4.4 Other provisions

36 Exclusion of certain proceedings

This part does not affect—

- (a) any proceeding for the recovery or enforcement of a fine, penalty or forfeiture (including the escheatment of a recognisance) imposed in a criminal proceeding; or
- (b) any law, custom or procedure under which the Attorney-General is entitled or liable to sue, or be sued, or intervene in a proceeding, on behalf of the Crown, on the relation, or on behalf of, any other person or people or in any other capacity or for any other purposes.

37 Regulations for pt 4

A regulation may make provision in relation to—

- (a) the details to be stated or to accompany process served on the Territory; and
- (b) the service of process or other documents under this part.

Part 5 Court security

40 Definitions—pt 5

In this part:

assistant sheriff means a person who is appointed under the *Supreme Court Act 1933*, section 53 (Sheriff's assistants).

court means—

- (a) the Supreme Court; or
- (b) the Magistrates Court; or
- (c) the Childrens Court; or
- (d) the Coroner's Court; or
- (e) the ACAT; or
- (f) a board of inquiry established under the *Inquiries Act 1991*; or
- (g) a royal commission established under the *Royal Commissions Act 1991*; or
- (h) a judicial commission established under the *Judicial Commissions Act 1994*; or
- (i) a court prescribed by regulation; or
- (j) any other tribunal or entity that is authorised to hear, receive and examine evidence and is prescribed by regulation.

court premises means the premises or place where a court is held or that is used in relation to the operations of a court, and includes—

- (a) a forecourt, courtyard, yard or area used with court premises; and
- (b) a part of premises or a place used as an entrance to or exit from court premises.

deputy sheriff means a person who is appointed as a deputy sheriff of the Territory under the *Supreme Court Act 1933*, section 46 (Appointment).

explosive—see the *Dangerous Substances Act 2004*, section 73.

firearm—see the *Firearms Act 1996*, section 6.

judge means a judge, or the associate judge, of the Supreme Court, and includes a person prescribed by regulation for this definition.

magistrate includes a person prescribed by regulation for this definition.

offensive weapon means—

- (a) anything made or adapted for use, or capable of being used, for causing injury to or incapacitating a person; or
- (b) anything intended for that use by the person who is carrying it or otherwise has it in the person's possession;

and includes an imitation or replica of an offensive weapon.

screening search means—

- (a) for a search of a person—a search by equipment designed to conduct the search without touching the person; and
- (b) for a search of a thing—a search by equipment designed to conduct the search without touching the thing or requiring it to be opened.

security officer means—

- (a) a police officer; or
- (b) a sheriff's officer; or
- (c) a person who is appointed as a security officer under section 51.

sheriff means the person appointed as the sheriff of the Territory under the *Supreme Court Act 1933*, section 46 (Appointment).

sheriff's officer means the sheriff, an assistant sheriff or a deputy sheriff.

41 Right of entry etc to court premises

- (1) A person has a right to enter and remain in an area of court premises that is open to the public if—
 - (a) the person complies with all orders made by a judge or magistrate, whether under this Act or otherwise; and
 - (b) the person complies with all the requirements made under this part by a security officer; and
 - (c) if the person wishes to enter or remain in a courtroom where a court is sitting or about to sit—there is seating for the person in the courtroom.
- (2) This section is subject to—
 - (a) the *ACT Civil and Administrative Tribunal Act 2008*, section 39 (Hearings in private or partly in private); and
 - (b) section 72 (Court proceedings involving children or young people not open to public); and
 - (c) the *Crimes (Child Sex Offenders) Act 2005*, section 132ZG (Proceedings for orders to be closed to public); and
 - (d) the following sections of the *Evidence (Miscellaneous Provisions) Act 1991*:
 - section 11 (Consequential orders—pt 2);
 - section 39 (Sexual and violent offence proceeding—evidence to be given in closed court);
 - section 44 (Consequential orders—div 4.3);
 - section 52 (c) (Application for leave under s 51);

- section 61 (5) (Preliminary examination of protected confidence evidence);
 - section 63 (2) (a) (Ancillary orders for protection of person who made protected confidence);
 - section 102 (Witness with vulnerability may give evidence in closed court);
 - section 111 (4) (Prohibition of publication of evidence etc); and
- (e) the *Inquiries Act 1991*, section 21 (3) (Power to hold); and
- (f) the *Magistrates Court Act 1930*, section 310 (Hearings generally to be in public); and
- (g) the *Royal Commissions Act 1991*, section 28 (3) (Power to hold); and
- (h) the *Workplace Privacy Act 2011*, section 27; and
- (i) the inherent jurisdiction of a court to regulate its proceedings; and
- (j) any other law in force in the ACT about the people who may be present in a court or on court premises.

42 Powers under part additional to other powers

The powers under this part are additional to any other powers that a court, judge, magistrate, police officer, sheriff's officer or anyone else has apart from this part.

43 Security officer to be identified before exercising powers

- (1) A security officer who is not a police officer or sheriff's officer may exercise a power under this part in relation to a person only if—
- (a) the officer first identifies himself or herself as a security officer if it is practicable to do so; and

- (b) the officer produces his or her identity card for inspection by the person if the person asks the officer to do so.
- (2) A security officer who is a police officer or sheriff's officer and is not in uniform may exercise a power under this part in relation to a person only if—
 - (a) the officer first identifies himself or herself as a police officer or sheriff's officer if it is practicable to do so; and
 - (b) the officer produces evidence that he or she is a police officer or sheriff's officer if the person asks the officer to do so.
- (3) If a security officer fails to comply with this section in relation to a person, the person is not obliged to comply with a requirement made by the officer.

44 Person may be required to state name etc

- (1) If a security officer believes, on reasonable grounds, that a person entering or on court premises is behaving unlawfully, is behaving in a disorderly or menacing way or is a threat to court security, the security officer may require the person to tell the officer—
 - (a) the person's name; and
 - (b) the person's reason for entering or being on the premises.
- (2) A person must not, without reasonable excuse, fail to tell a security officer the person's name, or the person's reason for entering or being on the court premises, when required to do so under subsection (1).

Maximum penalty: 5 penalty units.

- (3) A person must not give a name, or other information, that is false or misleading in a material particular in purported compliance with a requirement under subsection (1).

Maximum penalty: 20 penalty units.

45 Searches

- (1) A security officer may require a person entering or on court premises to do any of the following:
 - (a) to undergo a screening search;
 - (b) to allow anything in the person's possession to be subjected to a screening search;
 - (c) to open and empty out the person's pockets;
 - (d) to open or empty a briefcase, bag or container (for example, a box or carton) the person is carrying or is otherwise in the person's possession or allow the security officer to search anything the person is carrying or is otherwise in the person's possession.
- (2) A requirement made by a security officer under this section—
 - (a) may be made only if the officer believes on reasonable grounds that it is prudent for court security; and
 - (b) may be of general application; and
 - (c) must comply with any written policy made in relation to searches under this section by—
 - (i) the Chief Justice; or
 - (ii) the Chief Magistrate; or
 - (iii) the general president of the ACAT.
- (3) If a security officer makes a requirement of a person under this section, the person must immediately comply with the requirement or leave the court premises.

Maximum penalty: 50 penalty units.

- (4) A security officer who conducts a search under this section must not use more force, or subject a person to greater indignity, than is necessary to conduct the search.

46 Seizure and forfeiture of firearms etc

A security officer may seize a firearm, explosive or offensive weapon that a person entering or on court premises is carrying or otherwise has in the person's possession.

47 Security officer may require thing that may hide firearms etc to be left

- (1) A security officer may require a person entering or on court premises with anything to leave the thing with the officer if the officer believes on reasonable grounds that the thing may contain a firearm, explosive or offensive weapon or be used as an offensive weapon.
- (2) If a security officer makes a requirement of a person under this section, the person must immediately comply with the requirement or leave the court premises.

Maximum penalty: 50 penalty units, 6 months imprisonment or both.

- (3) If a person leaves something with a security officer under this section, the person is entitled, on request to a security officer, to the return of the thing when the person leaves the court premises.

48 Unlawful, disorderly conduct etc

- (1) If a security officer believes on reasonable grounds that a person entering or on court premises is behaving unlawfully or in a disorderly or menacing way, the officer may require the person not to enter, or to leave, the court premises.
- (2) However, if the person tells the security officer that the person is required to attend the court, the officer may only make the requirement with the court's leave or if the officer is satisfied on reasonable grounds that the person is not required to attend the court.

- (3) For this section, a person is required to attend a court if—
- (a) the person is a lawyer who is to appear before the court; or
 - (b) the person is a party to a proceeding being heard, or about to be heard, by the court; or
 - (c) the person is required to attend the court by a summons, subpoena or other court process or order; or
 - (d) the person is accompanying a person mentioned in paragraph (a) to (c).
- (4) A person must not contravene a requirement under this section.
- Maximum penalty: 50 penalty units, 6 months imprisonment or both.

49 Contravention of requirement of security officer

- (1) If a person contravenes a requirement of a security officer under section 44 (Person may be required to state name etc), section 45 (Searches) or section 47 (Security officer may require thing that may hide firearms etc to be left), a security officer may require the person—
- (a) not to enter the court premises or a part of the court premises; or
 - (b) to immediately leave the court premises or a part of the court premises.
- (2) However, if the person tells the security officer that the person is required to attend the court, the officer may only make the requirement with the court's leave or if the officer is satisfied on reasonable grounds that the person is not required to attend the court.

- (3) For this section, a person is required to attend a court if—
- (a) the person is a lawyer who is to appear before the court; or
 - (b) the person is a party to a proceeding being heard, or about to be heard, by the court; or
 - (c) the person is required to attend the court by a summons, subpoena or other court process or order; or
 - (d) the person is accompanying a person mentioned in paragraph (a) to (c).
- (4) A person must not contravene a requirement under this section.
Maximum penalty: 50 penalty units.
- (5) A security officer may prevent a person from entering court premises or a part of court premises in contravention of a requirement under this section or section 48.
- (6) If a person on court premises contravenes a requirement under this section or section 48, a security officer may require the person to leave the court premises and, if the person does not immediately leave the court premises, remove the person from the court premises using reasonable force.

50 Judge, magistrate or presidential member may close court premises

- (1) If a judge, magistrate or presidential member considers it necessary for securing order and safety in court premises or a part of court premises, the judge, magistrate or presidential member may—
- (a) order members of the public generally, or stated members of the public, to leave the court premises or a part of the court premises; or
 - (b) order members of the public generally, or stated members of the public, not to be admitted to the court premises or a part of the court premises.

- (2) A person must not contravene an order of a judge, magistrate or presidential member under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A security officer may prevent a person from entering court premises or a part of court premises in contravention of an order under this section.

- (4) If a person on court premises contravenes an order under this section, a security officer may require the person to leave the court premises and, if the person does not immediately leave the court premises, remove the person from the court premises using reasonable force.

- (5) In this section:

presidential member—see the *ACT Civil and Administrative Tribunal Act 2008*, dictionary.

51 Security officers

- (1) The director-general may appoint a person (other than a police officer or sheriff's officer) to be a security officer.

Note 1 For the making of appointments (including acting appointments), see the *Legislation Act*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act*, 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 Each police officer and sheriff's officer is a security officer (see s 40, def *security officer*).

- (2) The director-general may appoint a person as a security officer only if the director-general is satisfied the person—

- (a) holds a security licence; and

- (b) has not committed an offence against this part or has not been convicted or found guilty of an offence involving fraud, dishonesty, violence, drugs or weapons; and
 - (c) is capable of competently exercising the functions of a security officer under this part.
- (3) The director-general may end the appointment of a person as a security officer if—
- (a) the person ceases to hold a security licence; or
 - (b) the person is not employed by a person holding a master licence under the *Security Industry Act 2003*; or
 - (c) the person commits an offence against this part or has been convicted or found guilty of an offence involving fraud, dishonesty, violence, drugs or weapons; or
 - (d) the person is not capable of competently exercising the functions of a security officer under this part; or
 - (e) the director-general and the person agree to the revocation.

Note A security officer's appointment also ends if the officer resigns (see [Legislation Act](#), s 210).

- (4) In this section:

security licence means a licence under the *Security Industry Act 2003* that authorises the licensee to patrol, protect, watch or guard property (including cash in transit), whether or not it authorises the licensee to do anything else.

52 Identity cards for security officers

- (1) The director-general must issue an identity card to each security officer who is not a police officer or sheriff's officer.
- (2) The identity card must—
 - (a) state that the person to whom the card is issued is a security officer for this part; and
 - (b) show—
 - (i) a recent photograph of the person; and
 - (ii) the name of the person; and
 - (iii) the date of issue of the card; and
 - (iv) a date of expiry of the card; and
 - (v) anything else prescribed by regulation.
- (3) A security officer who is not a police officer or sheriff's officer must—
 - (a) at all times while on duty at court premises wear the officer's identity card so it is clearly visible; and
 - (b) produce it for inspection by a person if the person asks the security officer to do so.

Maximum penalty: 1 penalty unit.

- (4) A person appointed as a security officer who ceases to be a security officer must return the officer's identity card to the director-general as soon as practicable, but within 21 days after ceasing to be a security officer.

Maximum penalty: 1 penalty unit.

Part 6 **Procedural provisions—all proceedings**

53 **Application—pt 6**

This part applies to all proceedings in the Supreme Court or Magistrates Court.

54 **No distinction between court and chambers**

The business of a court, wherever it is conducted, is taken to be conducted in court.

Part 6A Procedural provisions—criminal proceedings

55 Provision of interpreters

- (1) This section applies if—
 - (a) evidence is to be given by a witness in a criminal proceeding through an interpreter; and
 - (b) either—
 - (i) the witness does not wish to provide the interpreter; or
 - (ii) the court considers that the person provided, or proposed to be provided, by the witness as an interpreter is not competent to interpret for the witness in the proceeding.

Note The *Evidence Act 2011*, s 30 provides that a witness in a proceeding in an ACT court may give evidence through an interpreter unless the witness can understand and speak the English language sufficiently to enable the witness to understand, and to make an adequate reply to, a question put to the witness.

- (2) The prosecutor must provide a person who is competent to interpret for the witness in the proceeding.

Part 7 Procedural provisions—civil proceedings

60 Application—pt 7

This part (other than section 63) applies to a civil proceeding in the Supreme Court or Magistrates Court.

Note Section 63 (Receivers) applies only to a civil proceeding in the Supreme Court.

61 Counterclaims and third parties

- (1) In a proceeding in the court, the defendant is entitled to relief (whether at law or in equity)—
 - (a) against the plaintiff, if the relief claimed would have been granted to the defendant if the defendant had started a separate proceeding against the plaintiff; or
 - (b) against someone other than the plaintiff, if—
 - (i) the relief claimed relates to the subject matter of the proceeding; and
 - (ii) the person is served with written notice of the claim; and
 - (iii) the claim would have been granted to the defendant if the defendant had started a separate proceeding against the person.
- (2) If a person is served with a notice mentioned in subsection (1) (b) (ii), the person is taken to be a party to the relevant proceeding with the same rights as if the defendant had started a separate proceeding against the person.

62 Injunctions

- (1) At any stage of a proceeding, the court may grant an injunction (interlocutory or otherwise) on the conditions the court considers appropriate if the court considers it appropriate to do so.
- (2) Without limiting subsection (1), the court may grant an injunction to restrain any threatened or apprehended waste, trespass, breach of contract or other injury.
- (3) Subsection (2) applies in relation to a threatened waste or trespass to land whether or not—
 - (a) the person against whom the injunction is sought claims any title to the land; or
 - (b) that person is in possession of the land; or
 - (c) the estates claimed by both or either of the parties are legal or equitable.

63 Receivers

- (1) This section applies only to a civil proceeding in the Supreme Court.
- (2) At any stage of the proceeding, the court may appoint a receiver if the court considers it appropriate to do so.
- (3) The appointment may be made on the conditions the court considers appropriate.

64 Rules of practice and procedure—judicial discretion

In a proceeding, if no provision about a matter of practice or procedure of a court is made under this Act or another territory law, the court may give the directions about practice and procedure that it considers appropriate.

65 Appearance by lawyer

A party to a proceeding in a court may appear before the court either personally or by a lawyer.

66 Non-appearance or absence of some defendants

- (1) When there are several defendants in any cause pending in the court, if any defendant is not served with process and does not voluntarily appear, the court may nevertheless entertain the cause and proceed to hear and determine it between the parties who are properly before the court.
- (2) The judgment referred to in subsection (1) in a cause does not prejudice a defendant in the cause who is not served with process and does not voluntarily submit to the jurisdiction of the court.
- (3) If, in a suit of which the court has jurisdiction, a defendant is not a resident of, or in, Australia and does not voluntarily appear in the suit, the court may nevertheless exercise its jurisdiction after notice to the defendant, and on the conditions, prescribed under the rules.

67 Amendment of defects

- (1) The court may at any time amend a defect or error in a proceeding in the court.
- (2) The amendment may be made on the conditions the court considers just.
- (3) An amendment under this section is to be made for the purpose of deciding the real questions in issue in the proceeding.

68 Formal defects to be amended

- (1) No proceedings in the court are to be invalidated by any formal defect or by any irregularity, unless the court is of opinion that substantial injustice has been caused and that the injustice cannot be remedied by an order of the court.
- (2) The court may make an order declaring that any proceeding is valid despite any formal defect or any irregularity.

Part 7A **Procedural provisions— proceedings involving children or young people**

Division 7A.1 **General**

68A **Definitions—pt 7A and div 7A.1**

- (1) In this part:

care and protection chapters means the care and protection chapters under the *Children and Young People Act 2008*.

child—see the *Children and Young People Act 2008*, section 11.

director-general means the director-general responsible for the *Children and Young People Act 2008*.

young person—see the *Children and Young People Act 2008*, section 12.

- (2) In this division:

daily care responsibility—see the *Children and Young People Act 2008*, section 19.

long-term care responsibility—see the *Children and Young People Act 2008*, section 20.

victim, of an offence—see the *Crimes (Sentencing) Act 2005*, section 47.

69 **Childrens Court procedure**

- (1) The *Magistrates Court Act 1930*, chapter 3 (Criminal proceedings), and the rules applying to criminal proceedings in the Magistrates Court, apply to the Childrens Court in relation to a criminal proceeding.

- (2) The rules applying to civil proceedings in the Magistrates Court apply to the Childrens Court in relation to any other proceeding.

71 When parents must attend court proceedings

- (1) A parent of a child or young person who is the subject of a proceeding in a court must attend the court throughout the proceeding if—
- (a) notice of the proceeding has been given to the parent; or
 - (b) the parent otherwise knows of the proceeding.
- (2) Notice of a proceeding given to a parent must state—
- (a) when and where the hearing of the proceeding will begin; and
 - (b) that a warrant may be issued to bring the parent before the court if the parent does not attend throughout the proceeding.
- (3) The court may issue a warrant to bring a parent of a child or young person before the court if—
- (a) notice of the proceeding has been given to a parent of the child or young person; but
 - (b) neither parent attends the court at the beginning of, or at any time during, the proceeding.
- (4) This section applies to a parent who lives in or outside the ACT.
- (5) However, this section does not apply to a parent if—
- (a) daily care responsibility or long-term care responsibility for the child or young person has been transferred to someone else; or
 - (b) for a criminal proceeding—the parent was a victim of an offence to which the proceeding relates and the court excludes the parent under section 72 (2); or
 - (c) exceptional circumstances prevent the parent from attending.

Examples—par (c)

- 1 the parent is overseas and unable to return
- 2 the parent is serving a sentence of imprisonment by full-time detention

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).

- (6) Also, this section does not apply to a proceeding under the care and protection chapters.

72 Court proceedings involving children or young people not open to public

- (1) If a child or young person is the subject of a proceeding in a court, the following people are the only people who may be present at the hearing of the proceeding:
- (a) an officer of the court;
 - (b) a party to the proceeding, a lawyer representing the party, and an employee of the lawyer;
 - (c) a parent of the child or young person;
 - (d) someone else who has daily care responsibility, or long-term care responsibility, for the child or young person;
 - (e) anyone else the court admits as the child's or young person's representative;
 - (f) the director-general or an authorised person under the [Children and Young People Act 2008](#);
 - (g) the public advocate or a person authorised by the public advocate for this section;
 - (h) a person who has, or a representative of an entity that has, provided a report under the care and protection chapters;

- (i) for a criminal proceeding—a person who attends the proceeding to prepare a news report of the proceeding and is authorised to attend for that purpose by the person’s employer;

Note Publishing certain information about proceedings involving children is an offence (see [Criminal Code](#), s 712A (Publishing identifying information about childrens proceedings)).

- (j) for a criminal proceeding—a person who was a victim of an offence to which the proceeding relates, unless the person is excluded by the court under subsection (2);
- (k) for a criminal proceeding in which circle sentencing is being considered—a person involved in the circle sentencing;
- (l) anyone else required or permitted to be present by the court or under the [Children and Young People Act 2008](#) or any other Act.

- (2) A court may exclude a person who was a victim of an offence to which a criminal proceeding relates from being present at the hearing of the proceeding if it considers it is appropriate to do so having regard to—

- (a) the person’s behaviour or expected behaviour; or
- (b) the nature of the person’s relationship with the child or young person.

Example—par (b)

a violent or abusive relationship

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).

- (3) The public advocate and the director-general may make submissions to the court about whether the court should require or permit a person to be present under subsection (1) (l), or exclude a person under subsection (2).

- (4) In this section:

circle sentencing—see the *Magistrates Court Act 1930*, section 291L.

73 Court may excuse parties from attending proceedings

- (1) This section applies if a child or young person is the subject of a proceeding in a court.
- (2) On the application of a party to the proceeding, the court may excuse the party from attending all or part of the proceeding.
- (3) The court may, at any time and by notice given to the party, require the party to attend the proceeding.

74 Certain related applications may be heard together

- (1) If 2 or more applications have been filed in a court in relation to a child or young person, the court may hear and decide the applications together if it considers that it would be in the best interests of the child or young person.
- (2) If 2 or more applications are before a court in relation to children or young people who are related, or that raise related matters about children or young people, the court may hear and decide the applications together if it considers that it would be in the best interests of each child or young person.

74A Participation of children and young people in proceedings

- (1) A child or young person has a right to take part in a proceeding in a court in relation to the child or young person.
- (2) The court may ask the director-general to assist the court by giving the child or young person sufficient information about the proceeding, in language and a way that the child or young person can understand, to allow the child or young person to take part fully in the proceeding.

74B Court must ensure children and young people etc understand proceedings

In a proceeding under the *Children and Young People Act 2008* or another territory law to which a child or young person is a party, the court must endeavour to ensure that the child or young person and any other party present at the hearing of the proceeding—

- (a) understands the nature and purpose of the proceeding and of any order that the court proposes to make or has made; and
- (b) if any relevant right of appeal exists—knows of the existence of a right of appeal against the relevant finding or order of the court.

74C Director-general and public advocate etc may appear at proceedings

- (1) This section applies if there is a hearing in a court of—
 - (a) a proceeding against a child or young person; or
 - (b) an application, proceeding or matter under the *Children and Young People Act 2008* or in relation to which that Act applies.
- (2) Each of the following is entitled to appear and be heard and may call witnesses:
 - (a) the director-general;
 - (b) an authorised person under the *Children and Young People Act 2008*;
 - (c) the public advocate;
 - (d) a person authorised by the public advocate for this section.

74D Court may order report about young person

- (1) A court hearing a criminal proceeding in relation to or against a child or young person may order the director-general to give the court a report about the child or young person.
- (2) A director-general given an order must, despite any other ACT law other than the *Human Rights Act 2004*, give a report.
- (3) In giving effect to the order, the director-general may do, or arrange for someone else to do, 1 or more of the following:
 - (a) visit and interview the child or young person;
 - (b) interview a parent of the child or young person;
 - (c) interview a schoolteacher or other person involved with the education or welfare of the child or young person;
 - (d) require the child or young person to submit to being interviewed by a doctor or other named person.
- (4) Unless a court otherwise orders, a copy of the report must be made available to the parties to the proceeding.
- (5) The person providing the report may be called as a witness by a party to the proceeding.

74E Children and young people may have legal and other representative

- (1) In a proceeding in a court in relation to a child or young person, the child or young person may be represented by a lawyer or litigation guardian, or both.
- (2) A representative of the child or young person must ensure that views and wishes stated by the child or young person are put to the court.

- (3) A representative of the child or young person must tell the court whether the representative is acting on the child's or young person's instructions or in the best interests of the child or young person, or both.

74F Leave needed for litigation guardian

- (1) In a proceeding in a court in relation to a child or young person, a person may be a litigation guardian for the child or young person only if the court gives leave.
- (2) The court may give leave for a person to be a litigation guardian for a child or young person only if both the person and the child or young person have been given an opportunity to be heard about the appointment.

74G Legal representation of children and young people

A court may hear a proceeding in relation to a child or young person only if—

- (a) the child or young person has a lawyer; or
- (b) the court is satisfied that—
- (i) the child or young person has had a reasonable opportunity to get legal representation; and
- (ii) the best interests of the child or young person will be adequately represented in the proceeding.

74H Orders about legal representation of children and young people—all proceedings

- (1) This section applies if, in a proceeding in a court in relation to a child or young person—
- (a) the child or young person does not have a lawyer; and

- (b) either—
- (i) the court is not satisfied that the child or young person has made, or can make, an informed and independent decision not to be represented by a lawyer, and it considers that the child or young person should be represented by a lawyer; or
 - (ii) the court is not satisfied that the interests of the child or young person will be adequately represented in the proceeding.
- (2) The court may, on application or on its own initiative, make any order, or give any direction, it considers necessary or desirable to allow the child or young person a reasonable opportunity to get a lawyer.

74I Rule-making committee and court to have regard to youth justice principles

- (1) The rule-making committee must have regard to the youth justice principles in making rules that relate, or may relate, to criminal proceedings involving children or young people.
- (2) A court must have regard to the youth justice principles in deciding any matter relating to the conduct of a criminal proceeding before the court that involves a child or young person.
- (3) A court may also have regard to the youth justice principles when deciding any matter relating to the conduct of a criminal proceeding before the court that involves—
 - (a) a person who is at least 18 years old but under 21 years old; and
 - (b) an offence committed, or allegedly committed, by the person when he or she was under 18 years old.

(4) In this section:

youth justice principles—see the *Children and Young People Act 2008*, section 94.

Division 7A.2 Care and protection considerations in proceedings

74K Proceedings dismissed or adjourned for care and protection reasons

(1) If, when hearing an indictment against a child or young person, the court is satisfied that the child or young person is in need of care and protection, the court may—

- (a) dismiss the indictment; or
- (b) adjourn the proceeding for up to 15 days.

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

(2) If a court acts under subsection (1), the court must, as soon as practicable but not later than 2 working days after the day it acts, give a statement of the reasons for the action to—

- (a) the director-general; and
- (b) the public advocate.

(3) The statement of reasons must contain the following information about the proceeding:

- (a) if the proceeding has been adjourned—the reason the proceeding was adjourned;
- (b) the circumstances the court is aware of that led to the child or young person coming before the court;
- (c) the factors that satisfied the court that the child or young person is in need of care and protection.

- (4) The director-general must treat a statement of reasons given to the director-general under subsection (2) as if it were a report made under the *Children and Young People Act 2008*, section 356 (Offence—mandatory reporting of abuse).
- (5) In this section:
in need of care and protection, for a child or young person—see the *Children and Young People Act 2008*, section 345.

74L Director-general must report to court and public advocate

- (1) This section applies if—
 - (a) a proceeding has been adjourned under section 74K (1); and
 - (b) the court has given the director-general a statement of reasons under section 74K (2).
- (2) Not later than 15 days after the day the court adjourns the proceeding under section 74K (1), the director-general must tell the public advocate and the court, in writing—
 - (a) what action the director-general has taken, is taking or proposes to take under the care and protection chapters in relation to the child or young person; or
 - (b) if the director-general proposes to take no action under any care and protection chapter in relation to the child or young person—that the director-general proposes to take no action.
- (3) Without limiting when the director-general is taken to have complied with subsection (2), the director-general is taken to have complied with that subsection if the director-general—
 - (a) makes an application under the care and protection chapters in relation to the child or young person; and
 - (b) gives a copy of the application to the public advocate.

74M Court action after adjournment

- (1) This section applies when a proceeding adjourned under section 74K (1) comes before the court again.
- (2) The court may dismiss the proceeding—
 - (a) if—
 - (i) the director-general has, under section 74L (2) (a), told the court what action the director-general has taken, is taking or proposes to take under the care and protection chapters in relation to the child or young person; and
 - (ii) the court is satisfied that taking the action is in the best interests of the child or young person; or
 - (b) if—
 - (i) the director-general has, under section 74L (2) (b), told the court that the director-general proposes to take no action under any care and protection chapter in relation to the child or young person; and
 - (ii) the court is satisfied that it is in the best interests of the child or young person that the director-general takes no action; or
 - (c) the director-general has made an application under the care and protection chapters in relation to the child or young person.
- (3) The court may also make any other order or take any other action in relation to the indictment against the child or young person that the court considers appropriate.

Part 7B Procedural provisions— industrial or work safety matters

74N Industrial Court procedure

- (1) The *Magistrates Court Act 1930*, chapter 3 (Criminal proceedings), and the rules applying to criminal proceedings in the Magistrates Court, apply to the Industrial Court in relation to a criminal proceeding.
- (2) The rules applying to civil proceedings in the Magistrates Court apply to the Industrial Court in relation to any other proceeding.

Part 8 Supreme Court—criminal proceedings

Division 8.1 Supreme Court criminal proceedings—preliminary

75 Application—pt 8

This part applies to a criminal proceeding in the Supreme Court.

Division 8.2 Trial on indictment

76 Supreme Court jurisdiction to make orders for conduct of indictable trials

- (1) The Supreme Court has jurisdiction in relation to the conduct of a criminal proceeding against an accused person for an indictable offence—
 - (a) if the accused person is committed to the sittings of the Supreme Court for the offence—when the Magistrates Court has completed making—
 - (i) an order to commit the accused person to the sittings of the Supreme Court (the *committal order*); and
 - (ii) any other orders incidental to the committal order; or
 - (b) in any other case—when an indictment for the offence is presented against the accused person in the Supreme Court.
- (2) Any orders, rulings or directions that may be made by the Supreme Court for the purposes of a trial for an indictable offence may be made before—
 - (a) if the tribunal of fact for the trial is a jury—the jury is empanelled; or

- (b) if the tribunal of fact for the trial is a judge alone—the judge starts hearing evidence to determine the guilt or innocence of the accused person; and
- (3) An order, ruling or direction of the Supreme Court under subsection (2) is binding on the trial judge at the hearing of the trial unless in the opinion of the trial judge it is not in the interests of justice for the order, ruling or direction to remain binding.
- (4) Subject to this Act, the point in a criminal proceeding on indictment against an accused person when an order, ruling or direction under subsection (2) is made is taken to be part of the trial of the accused person.
- (5) If an accused person elects to be tried by a jury, the person may be arraigned again in the presence of the panel of jurors.

Division 8.3 Pre-trial disclosure of expert evidence

77 Application—div 8.3

- (1) This division applies to a criminal proceeding that is a trial on indictment of an accused person in which—
 - (a) the Supreme Court has jurisdiction; and
 - (b) neither of the following events in the trial has happened:
 - (i) if the tribunal of fact for the trial is a jury—the jury is empanelled;
 - (ii) if the tribunal of fact for the trial is a judge alone—the trial judge starts hearing evidence to determine the guilt or innocence of the accused.

- (2) In this section:

criminal proceeding—a reference to a *criminal proceeding* includes a criminal proceeding begun before the day on which this section commences.

trial—a reference to a *trial* includes a retrial.

78 Mandatory pre-trial disclosure—expert evidence

- (1) After an indictment is filed in a proceeding, the following pre-trial disclosure is required:
- (a) the prosecutor must give each accused person written notice in accordance with section 79 about whether or not the prosecution will adduce expert evidence in the proceeding;
 - (b) an accused person must give the prosecution and each co-accused person (if any)—
 - (i) written notice about whether or not the accused person will adduce expert evidence in the proceeding; and
 - (ii) if the accused person receives written notice under this division from the prosecution or a co-accused person about an intention to adduce expert evidence in the proceeding—written notice in reply in accordance with section 79A;
 - (c) if the prosecutor receives written notice under this division from an accused person about an intention to adduce expert evidence in the proceeding—the prosecutor must give each accused person written notice in reply in accordance with section 79B.
- (2) Pre-trial disclosure in accordance with this section must happen before the date set for the trial in the proceeding and in accordance with a timetable determined by the court.

- (3) The court may vary the timetable determined under subsection (2) if it considers that it would be in the interests of justice to do so.

79 Prosecution notice—expert evidence

For section 78 (1) (a), written notice by a prosecutor in a proceeding must—

- (a) if the prosecution intends to adduce expert evidence in the proceeding—include the following:
- (i) a statement that the prosecution intends adducing expert evidence in the proceeding;
 - (ii) a copy of any statement or report relevant to the proceeding that sets out the opinion of a person who the prosecution intends to call as an expert witness in the proceeding;
 - (iii) a copy of any other real evidence that is relevant to expert evidence that the prosecution proposes to adduce at the trial or, if it is not practicable to copy the real evidence, a detailed description of the real evidence;
 - (iv) any chart or explanatory material relating to expert evidence that the prosecution proposes to adduce at the trial; or
- (b) if the prosecution does not intend adducing expert evidence in the proceeding—a statement that the prosecution does not intend adducing expert evidence in the proceeding.

79A Accused person’s notice and reply—expert evidence

- (1) For section 78 (1) (b) (i), written notice by an accused person about expert evidence in the accused person’s case must—
- (a) if the accused person intends to adduce expert evidence in the proceeding—include the following:

- (i) a statement that the accused person intends adducing expert evidence in the proceeding;
 - (ii) a copy of any statement or report relevant to the proceeding that sets out the opinion of a person who the accused person intends to call as an expert witness in the proceeding;
 - (iii) a copy of any other real evidence that is relevant to expert evidence that the accused person proposes to adduce at the trial or, if it is not practicable to copy the real evidence, a detailed description of the real evidence;
 - (iv) any chart or explanatory material relating to expert evidence that the accused person proposes to adduce at the trial; or
- (b) if the accused person does not intend adducing expert evidence in the proceeding—a statement that the accused person does not intend adducing expert evidence in the proceeding.
- (2) For section 78 (1) (b) (ii), written notice by an accused person in reply to a notice under this division from the prosecution or a co-accused person (a *party's notice*) in a proceeding must—
- (a) if the party's notice states an intention to adduce expert evidence in the proceeding—state any objections or relevant matters of fact or law that the accused person intends to raise in relation to the expert evidence; and
 - (b) if the party's notice states the party does not intend adducing expert evidence in the proceeding—confirm receipt of the party's notice.

79B Prosecution reply—expert evidence

For section 78 (1) (c), written notice by the prosecution in reply to a notice under this division from an accused person in a proceeding must—

- (a) if the accused person’s notice states an intention to adduce expert evidence in the proceeding—state any objections or relevant matters of fact or law that the prosecution intends to raise in relation to the expert evidence; and
- (b) if the accused person’s notice states no intention to adduce expert evidence in the proceeding—confirm receipt of the accused person’s notice.

79C Sanctions for non-compliance with pre-trial disclosure requirements

- (1) The court may refuse to admit expert evidence sought to be adduced by a party in a proceeding if the party failed to disclose the evidence to the other parties in accordance with this division.
- (2) The court may refuse to admit evidence from an expert witness sought to be adduced by a party in a proceeding if the party failed to give the other parties a copy of a report by the expert witness in accordance with requirements for pre-trial disclosure imposed under this division.
- (3) The court may grant an adjournment to a party (the *first party*) if another party (the *second party*) seeks to adduce evidence in the proceedings that the second party failed to disclose in accordance with requirements for pre-trial disclosure imposed under this division and that would prejudice the case of the first party.

79D Disclosure requirement is ongoing

- (1) The obligation to comply with the requirements for pre-trial disclosure in relation to expert evidence under this division applies until—
 - (a) the accused person is convicted or acquitted of the charges in the indictment; or
 - (b) the prosecution is brought to an end.
- (2) If a party becomes aware of a notifiable development in relation to expert evidence disclosed under this division after the evidence was disclosed the party must notify each other party to the proceeding about the development as soon as practicable.
- (3) A party may, with the leave of the court, amend notice given by the party under this division if notification about a notifiable development is received from another party that would affect the contents of the party's notice.
- (4) A party that amends the party's notice in accordance with subsection (3) must give the amended notice to each other party to the proceeding.
- (5) In this section:

notifiable development, in relation to expert evidence required to be disclosed under this division in a proceeding, means any information, document, thing or occurrence relevant to—

 - (a) an understanding of the expert evidence; or
 - (b) the reliability of the expert evidence or a person who is proposed to give the evidence in the proceeding; or
 - (c) the use or effect of the expert evidence in a proceeding.

79E Court may waive requirements

- (1) A court may, by order, waive any of the pre-trial disclosure requirements under this division if the court considers that it would be in the interests of justice to do so.
- (2) The court may make an order under this section on its own initiative or on the application of the prosecutor or an accused person.
- (3) An order may be made subject to any condition the court considers appropriate.
- (4) The court must take into account whether the accused person is represented by a lawyer when considering whether to make an order under this section.
- (5) The court must give reasons for the making of an order under this section.

79F Miscellaneous provision

A statement about any matter that is made by or on behalf of the accused person for the purposes of complying with requirements for pre-trial disclosure imposed by or under this division does not constitute an admission of that matter by the accused person.

Part 9 Miscellaneous

80 Assignment of earnings not enforceable

- (1) An assignment of earnings is not enforceable.
- (2) Subsection (1) has effect regardless of—
 - (a) the nature of the instrument effecting the assignment; or
 - (b) the nature of the transaction that gave rise to the assignment.
- (3) In this section:

earnings means a sum payable to a person—

- (a) by way of wages or salary, including any fee, bonus, commission, overtime pay or other amount payable in addition to wages or salary; or
- (b) by way of pension, including—
 - (i) an annuity in relation to past services, whether or not the services were rendered to the person paying the annuity; and
 - (ii) periodical payments in relation to compensation for the loss, or any reduction in benefits, of any office or employment; and
 - (iii) periodical payments in relation to compensation for the loss of wages or salary because of illness or injury.

81 Court may inquire into truth of return of writ

Upon the return of a writ of habeas corpus, the court before which the writ is returnable may inquire into the truth of the matters set out in the return of the writ.

82 Delegation by secretary of rule-making committee

The secretary of the rule-making committee may delegate a function under the [Legislation Act](#), section 61 (Notification of legislative instruments) to a public servant.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

83 Regulation-making power

The Executive may make regulations for this Act.

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

Schedule 1 Subject matter for rules

(see s 7)

Part 1.1 General

1 Jurisdiction

- (1) the jurisdiction of ACT courts, including civil, criminal and any appellate jurisdiction
- (2) the jurisdiction of prescribed tribunals
- (3) the jurisdiction of the associate judge, registrars and deputy registrars, including review of their decisions

2 Service of documents

service of documents, including, for example, the following:

- (a) the kinds of service, including personal service and electronic service;
- (b) service outside the ACT or Australia;
- (c) service of foreign legal process in the ACT

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).

3 Evidence

taking evidence generally, including, for example, the following:

- (a) the way evidence may be given;
- (b) dispensing with the rules of evidence;
- (c) taking evidence out of court;
- (d) taking of evidence for future claims;

- (e) subpoenas;
- (f) affidavits and exchange of correspondence instead of affidavit evidence;
- (g) obtaining evidence, including calling witnesses;
- (h) taking evidence outside the ACT or Australia;
- (i) taking evidence in the ACT for foreign courts and tribunals

4 Certain proceedings

- (1) review of Magistrates Court decisions by order nisi
- (2) cases stated and questions reserved to the Supreme Court
- (3) cases stated and questions reserved from the Supreme Court to the Court of Appeal

5 Admission of lawyers

the admission of lawyers

6 Miscellaneous

the following matters:

- (a) case management;
- (b) documents filed in registries, including electronic filing;
- (c) the receipt, issue or transmission electronically of forms and other documents and material for use in, or in relation to, proceedings;
- (d) functions of registries generally;
- (e) exhibits and other things held by an ACT court or prescribed tribunal for a proceeding, including, for example, disposal or destruction of unclaimed things;
- (f) rules relating to lawyers acting for parties in proceedings;

Schedule 1
Part 1.1

Subject matter for rules
General

Item 6

- (g) rules about the reckoning of time and anything else about time;
- (h) confidentiality for mediators, neutral evaluators and expert witnesses;
- (i) protection from liability for mediators, neutral evaluators and expert witnesses;
- (j) transitional arrangements

Part 1.2 Civil proceedings

7 Beginning proceedings

beginning proceedings, including, for example, the following:

- (a) originating process, including duration, renewal and setting aside;
- (b) where to begin proceedings;
- (c) preliminary discovery, including discovery to identify defendants

8 Transfer between courts

transfer of proceedings between courts, including, for the Supreme Court, cross-vesting of jurisdiction

9 Parties and proceedings

parties and proceedings, including, for example, the following:

- (a) several causes of action and parties in civil proceedings, including reconstitution of proceedings and representative parties;
- (b) multiple civil proceedings;
- (c) interpleader proceedings;
- (d) proceedings by or against businesses or people with a legal disability;
- (e) set-off and contribution, including, for example, rights to set-off and contribution;
- (f) third-party procedure

10 Steps in proceedings

steps in proceedings, including, for example, the first step for a defendant in a proceeding

11 Pleadings

pleadings, including, for example, the following:

- (a) matters in pleadings and particulars;
- (b) progress of pleadings;
- (c) particular pleadings, including statements of claim, defences and counterclaims;
- (d) striking out pleadings and particulars

12 Disclosure

disclosure, including, for example, the following:

- (a) disclosure by parties, including discovery and inspection of documents and interrogatories;
- (b) non-party disclosure;
- (c) admissions;
- (d) disclosure of experts reports;
- (e) disclosure of other material to which legal professional privilege may attach, including by direction or order of the court or tribunal

13 Preservation of rights and property

preservation of rights and property, including, for example, the following:

- (a) inspection, detention and preservation of property;
- (b) injunctions;

- (c) for the Supreme Court—receivers and sales of land by court order

14 Ending proceedings early

ending proceedings early, including, for example, the following:

- (a) ending proceedings because of default;
- (b) summary decisions;
- (c) discontinuance and withdrawal;
- (d) offers to settle and payments by defendants;
- (e) the referral of cases to arbitration;
- (f) alternative dispute resolution processes

15 Court supervision

court supervision, including, for example, the following:

- (a) directions about conducting proceedings;
- (b) consequences of failing to comply with rules, directions or court orders;
- (c) amendments, with and without leave;
- (d) continuation of proceedings after delay;
- (e) pre-trial matters, including pre-trial directions and rulings

16 Expert evidence

expert evidence generally, including, for example, the following:

- (a) giving immunity from action to experts in relation to reports tendered in evidence;
- (b) matters relating to court experts, including—
 - (i) how the court is to choose an expert; and

- (ii) how experts may give evidence and be questioned;
- (c) defining the duty of expert witnesses in relation to the court and the parties;
- (d) prescribing the basis of, and conditions for, admissibility of expert evidence

17 Trials and other hearings

trials and other hearings, including, for example, the following:

- (a) practice lists;
- (b) list applications for hearing and setting trial dates;
- (c) conduct of trials;
- (d) decisions without pleadings or without hearings;
- (e) separate decisions on questions;
- (f) assessors and special referees;
- (g) making findings of liability independently of awarding damages;
- (h) assessment and awarding of damages, including, for example—
 - (i) structured settlements, that is, payment of awards of damages otherwise than in lump sum form; and
 - (ii) awarding damages independently of making findings of liability;
- (i) simplifies procedures for certain claims

18 Judgments

judgments, including, for example, the following:

- (a) effect of judgments;

- (b) setting aside judgments

19 Particular proceedings

particular proceedings, including, for example, the following:

- (a) taking of accounts;
- (b) proceedings for damages for personal injury or death;
- (c) the payment of amounts into court;
- (d) for the Supreme Court—judicial review proceedings;
- (e) for the Supreme Court—prerogative orders, including prerogative injunctions and declarations, and the form in which prerogative relief or remedy may be granted;
- (f) for the Supreme Court—habeas corpus orders, including the form in which relief by way of habeas corpus may be granted

20 Interest

interest, including, for example, the following:

- (a) interest up to judgment;
- (b) interest on judgments

21 Administration and probate

for the Supreme Court, administration and probate, including, for example, the following:

- (a) applications for grants of probate or letters of administration and the documents required;
- (b) resealing grants;
- (c) caveats objecting to grants, orders to administer or resealing grants;
- (d) contested proceedings

22 Adoption

for the Supreme Court, adoption, including, for example, applications for adoptions

23 Arbitration

for the Supreme Court, arbitration, including, for example, the use of court-appointed referees

24 Contempt of court

contempt of court, including, for example, the following:

- (a) contempt of the court as constituted other than by a judge or magistrate;
- (b) proceedings for failure to comply with orders, other than orders to pay an amount

25 Trusts

for the Supreme Court, trusts

26 Costs

costs, including, for example, the following:

- (a) security for costs;
- (b) entitlement to recover costs;
- (c) costs of parties in proceedings;
- (d) assessment of costs

27 Appeals

appeals, including, for example, the following:

- (a) for the Magistrates Court and prescribed tribunals—appeals to the Supreme Court;

- (b) for the Supreme Court—
 - (i) appeals to the Supreme Court other than to the Court of Appeal; and
 - (ii) appeals to the Court of Appeal

28 Enforcement of judgments

enforcement of judgments, including, for example, the following:

- (a) enforcement hearings, including examination procedures;
- (b) enforcement orders, including the following:
 - (i) enforcement orders for entry onto, and delivery of possession of, land;
 - (ii) enforcement orders for seizure and sale of property;
 - (iii) enforcement orders for seizure and delivery of particular goods;
 - (iv) enforcement orders for seizure and detention of property;
 - (v) enforcement orders for the attachment or redirection of debts, income and other money;
 - (vi) for the Supreme Court—enforcement orders for charging orders and stop orders;
- (c) instalment orders;
- (d) powers of enforcement officers

29 Reciprocal enforcement of foreign judgments

reciprocal enforcement of foreign judgments

Part 1.3 Criminal proceedings

30 Practice and procedure in criminal jurisdiction

practice and procedure in the criminal jurisdiction of the Magistrates Court and Supreme Court (including any appellate jurisdiction) generally, including, for example, the following:

- (a) forms for proceedings;
- (b) beginning criminal proceedings, including indictments and informations;
- (c) appearance;
- (d) arraignments;
- (e) applications;
- (f) pleadings;
- (g) duties of lawyers and the court;
- (h) pre-trial matters, including pre-trial directions and rulings;
- (i) regulating hearings and trial proceedings;
- (j) expert evidence;
- (k) custody and inspection of exhibits;
- (l) recording of proceedings and access to records;
- (m) costs payable to defendants in particular circumstances;
- (n) inspecting registry files;
- (o) appeals, including appeals to the Supreme Court and Court of Appeal;
- (p) listing trials, sentences, applications and appeals for hearing, and setting hearing dates;
- (q) enforcement of decisions

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1 defines the following terms:

- ACAT
- associate judge
- director-general (see s 163)
- found guilty (of an offence)
- government solicitor
- Magistrates Court
- property
- public servant
- Supreme Court
- reviewable decision notice
- territory authority.

advisory committee means the advisory committee established under section 11.

assistant sheriff, for part 5 (Court security)—see section 40.

care and protection chapters, for part 7A (Procedural provisions—proceedings involving children or young people)—see section 68A.

child, for part 7A (Procedural provisions—proceedings involving children or young people)—see the [Children and Young People Act 2008](#), section 11.

corresponding law, for part 4 (Crown proceedings)—see section 20.

court, for part 5 (Court security)—see section 40.

court premises, for part 5 (Court security)—see section 40.

Crown, for part 4 (Crown proceedings)—see section 20.

daily care responsibility, for division 7A.1 (General)—see the [Children and Young People Act 2008](#), section 19.

deputy sheriff, for part 5 (Court security)—see section 40.

determined fee, for part 3 (Court and tribunal fees)—see section 12.

director-general, for part 7A (Procedural provisions—proceedings involving children or young people)—see section 68A.

explosive, for part 5 (Court security)—see the [Dangerous Substances Act 2004](#), section 73.

fee, for part 3 (Court and tribunal fees)—see section 12.

firearm, for part 5 (Court security)—see the [Firearms Act 1996](#), section 6.

judge, for part 5 (Court security)—see section 40.

judgment, for part 4 (Crown proceedings)—see section 20.

long-term care responsibility, for division 7A.1 (General)—see the [Children and Young People Act 2008](#), section 20.

magistrate, for part 5 (Court security)—see section 40.

offensive weapon, for part 5 (Court security)—see section 40.

prescribed tribunal, for part 2 (Court rules and forms) and schedule 1 (Subject matter for rules)—see section 6.

principal registrar—see section 11A.

proceeding, for part 4 (Crown proceedings)—see section 20.

relevant legislation, for part 3 (Court and tribunal fees)—see section 12.

reviewable decision, for division 3.2 (Review of decisions—fees)—see section 18.

rule-making committee means the rule-making committee established under section 9.

screening search, for part 5 (Court security)—see section 40.

security officer, for part 5 (Court security)—see section 40.

sheriff, for part 5 (Court security)—see section 40.

sheriff's officer, for part 5 (Court security)—see section 40.

Territory Crown, for part 4 (Crown proceedings)—see section 20.

the Territory, for part 4 (Crown proceedings)—see section 20.

victim, of an offence, for division 7A.1 (General)—see the [Crimes \(Sentencing\) Act 2005](#), section 47.

young person, for part 7A (Procedural provisions—proceedings involving children or young people)—see the [Children and Young People Act 2008](#), section 12.

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

Court Procedures Act 2004 A2004-59

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
remainder commenced 10 January 2005 (s 2 and [CN2004-29](#))

as amended by

[Court Procedures \(Consequential Amendments\) Act 2004 A2004-60](#) sch 1 pt 1.4, pt 1.16, pt 1.19, pt 1.24, pt 1.31, pt 1.32, pt 1.68, pt 1.69

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
sch 1 pt 1.4, pt 1.16, pt 1.19, pt 1.24, pt 1.31, pt 1.32, pt 1.68, pt 1.69
commenced 10 January 2005 (s 2 and see Court Procedures Act 2004
A2004-59, s 2 and [CN2004-29](#))

[Domestic Violence and Protection Orders Amendment Act 2005](#) A2005-13 sch 1 pt 1.3

notified LR 24 March 2005
s 1, s 2 commenced 24 March 2005 (LA s 75 (1))
sch 1 pt 1.3 commenced 25 March 2005 (s 2)

[Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.11](#)

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.11 commenced 2 June 2005 (s 2 (1))

[Justice and Community Safety Legislation Amendment Act 2005](#) (No 4) A2005-60 amdt 1.9, sch 1 pt 1.10, amdt 1.61, amdt 1.72, amdt 1.80, amdt 1.137, amdt 1.141

notified LR 1 December 2005
s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))
amdt 1.9 commenced 11 January 2006 (s 2 (1) (a) and see [Statute](#)
[Law Amendment Act 2005 \(No 2\) A2005-62, s 2 \(1\)](#))
sch 1 pt 1.10, amdt 1.61, amdt 1.72, amdt 1.80, amdt 1.137,
amdt 1.141 commenced 22 December 2005 (s 2 (4))

[Legal Profession Act 2006 A2006-25 sch 2 pt 2.3](#)

notified LR 21 June 2006
s 1, s 2 commenced 21 June 2006 (LA s 75 (1))
sch 2 pt 2.3 commenced 1 July 2006 (s 2)

Endnotes

3 Legislation history

Civil Law (Property) Act 2006 A2006-38 sch 1 pt 1.4, amdt 1.7

notified LR 28 September 2006

s 1, s 2 commenced 28 September 2006

sch 1 pt 1.4, amdt 1.7 commenced 28 March 2007 (s 2 and LA s 79)

Justice and Community Safety Legislation Amendment Act 2006 A2006-40 sch 1 pt 1.4, sch 2 pt 2.13, amdt 2.203, amdt 2.204

notified LR 28 September 2006

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

sch 1 pt 1.4 commenced 19 October 2006 (s 2 (3))

sch 2 pt 2.13, amdt 2.203, amdt 2.204 commenced 29 September 2006 (s 2 (1))

Statute Law Amendment Act 2006 A2006-42 sch 3 pt 3.7

notified LR 26 October 2006

s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))

sch 3 pt 3.7 commenced 16 November 2006 (s 2 (1))

Court Legislation Amendment Act 2006 A2006-55 pt 3

notified LR 18 December 2006

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

pt 3 commenced 19 December 2006 (s 2)

Children and Young People Act 2008 A2008-19 sch 1 pt 1.2

notified LR 17 July 2008

s 1, s 2 commenced 17 July 2008 (LA s 75 (1))

sch 1 pt 1.2 commenced 27 February 2009 (s 2 and [CN2008-17](#) (and see [CN2008-13](#)))

Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 1 pt 1.2, sch 2 pt 2.5, sch 4 pt 4.5

notified LR 17 July 2008

s 1, s 2 commenced 17 July 2008 (LA s 75 (1))

s 3, s 4 commenced 18 July 2008 (s 2 (1))

sch 1 pt 1.2, sch 4 pt 4.5 commenced 27 February 2009 (s 2 (5) and see [Children and Young People Act 2008 A2008-19](#), s 2 and [CN2008-17](#) (and see [CN2008-13](#)))

sch 2 pt 2.5 commenced 9 September 2008 (s 2 (3) and see [Children and Young People Act 2008 A2008-19](#), s 2 and [CN2008-13](#))

Justice and Community Safety Legislation Amendment Act 2008 (No 2) A2008-22 sch 1 pt 1.2

notified LR 8 July 2008
s 1, s 2 commenced 8 July 2008 (LA s 75 (1))
sch 1 pt 1.2 commenced 29 July 2008 (s 2)

Firearms Amendment Act 2008 A2008-25 sch 2 pt 2.1

notified LR 15 July 2008
s 1, s 2 commenced 15 July 2008 (LA s 75 (1))
sch 2 pt 2.1 commenced 15 January 2009 (s 2 (1) and LA s 79)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.15

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.15 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

Domestic Violence and Protection Orders Act 2008 A2008-46 sch 3 pt 3.3

notified LR 10 September 2008
s 1, s 2 commenced 10 September 2008 (LA s 75 (1))
sch 3 pt 3.3 commenced 30 March 2009 (s 2)

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.20

notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.20 commenced 22 September 2009 (s 2)

Crimes Legislation Amendment Act 2009 A2009-24 sch 1 pt 1.2

notified LR 3 September 2009
s 1, s 2 commenced 3 September 2009 (LA s 75 (1))
sch 1 pt 1.2 commenced 4 September 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2009 (No 3) A2009-44 sch 1 pt 1.7

notified LR 24 November 2009
s 1, s 2 commenced 24 November 2009 (LA s 75 (1))
sch 1 pt 1.7 commenced 22 December 2009 (s 2 (3))

Endnotes

3 Legislation history

**Crimes (Sentence Administration) Amendment Act 2010 A2010-21
sch 1 pt 1.2**

notified LR 30 June 2010
s 1, s 2 commenced 30 June 2010 (LA s 75 (1))
sch 1 pt 1.2 commenced 1 July 2010 (s 2)

Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.11

notified LR 22 February 2011
s 1, s 2 commenced 22 February 2011 (LA s 75 (1))
sch 3 pt 3.11 commenced 1 March 2011 (s 2)

Workplace Privacy Act 2011 A2011-4 s 49

notified LR 24 February 2011
s 1, s 2 commenced 24 February 2011 (LA s 75 (1))
s 49 commenced 10 March 2011 (s 2 (1))

Courts Legislation Amendment Act 2011 A2011-13 sch 1 pt 1.2

notified LR 11 May 2011
s 1, s 2 commenced 11 May 2011 (LA s 75 (1))
sch 1 pt 1.2 commenced 25 July 2011 (s 2 and [CN2011-8](#))

**Administrative (One ACT Public Service Miscellaneous Amendments)
Act 2011 A2011-22 sch 1 pt 1.39**

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.39 commenced 1 July 2011 (s 2 (1))

**Evidence (Consequential Amendments) Act 2011 A2011-48 sch 1
pt 1.11**

notified LR 22 November 2011
s 1, s 2 commenced 22 November 2011 (LA s 75 (1))
sch 1 pt 1.11 commenced 1 March 2012 (s 2 (1) and see [Evidence Act 2011 A2011-12](#), s 2 and [CN2012-4](#))

**Justice and Community Safety Legislation Amendment Act 2012
A2012-13 sch 1 pt 1.3**

notified LR 11 April 2012
s 1, s 2 commenced 11 April 2012 (LA s 75 (1))
sch 1 pt 1.3 commenced 12 April 2012 (s 2 (1))

Crimes (Child Sex Offenders) Amendment Act 2012 A2012-20 s 31

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

s 31 commenced 13 September 2012 (s 2 and [CN2012-15](#))

Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.8

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

sch 3 pt 3.8 commenced 5 June 2012 (s 2 (1))

Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.8

notified LR 24 May 2013

s 1, s 2 commenced 24 May 2013 (LA s 75 (1))

sch 3 pt 3.8 commenced 14 June 2013 (s 2)

**Magistrates Court (Industrial Proceedings) Amendment Act 2013
A2013-43 sch 1 pt 1.1**

notified LR 7 November 2013

s 1, s 2 commenced 7 November 2013 (LA s 75 (1))

sch 1 pt 1.1 commenced 8 November 2013 (s 2)

**Judicial Commissions Amendment Act 2015 A2015-1 sch 1 pt 1.2
(as am by A2015-52 s 28)**

notified LR 25 February 2015

s 1, s 2 commenced 25 February 2015 (LA s 75 (1))

sch 1 pt 1.2 awaiting commencement (s 2 (as am by [A2015-52 s 28](#)))

Note default commencement under s 2 (2): 1 February 2017 (LA s 79 does not apply to this Act)

Courts Legislation Amendment Act 2015 A2015-10 pt 7

notified LR 7 April 2015

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

pt 7 commenced 21 April 2015 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2015
A2015-11 sch 1 pt 1.4**

notified LR 20 May 2015

s 1, s 2 commenced 20 May 2015 (LA s 75 (1))

sch 1 pt 1.4 commenced 21 May 2015 (s 2 (1))

Endnotes

3 Legislation history

Mental Health Act 2015 A2015-38 sch 2 pt 2.4 div 2.4.5

notified LR 7 October 2015

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

sch 2 pt 2.4 div 2.4.5 commences 1 March 2016 (s 2 (1) and see Mental Health (Treatment and Care) Amendment Act 2014 [A2014-51](#), s 2 (as am by [A2015-38](#) amdt 2.54))

Crimes (Domestic and Family Violence) Legislation Amendment Act 2015 A2015-40 sch 1 pt 1.3

notified LR 4 November 2015

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

sch 1 pt 1.3 commences 4 May 2016 (s 2 (2))

Courts Legislation Amendment Act 2015 (No 2) A2015-52 pt 5, pt 10

notified LR 26 November 2015

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

s 20 commences 7 April 2016 (s 2 (1))

pt 5 remainder, pt 10 (s 28) commenced 10 December 2015 (s 2 (2))

Note Pt 10 (s 28) only amends the [Judicial Commissions Amendment Act 2015 A2015-1](#)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Main purpose of civil procedure provisions

s 5A ins [A2015-52](#) s 16

Rule-making power

s 7 am [A2005-20](#) amdt 3.96

Approved forms

s 8 am [A2011-3](#) amdt 3.148

Rule-making committee

s 9 am [A2012-13](#) amdt 1.13; [A2015-10](#) s 23, s 28; ss renum R39
LA

Delegation by Chief Justice and Chief Magistrate

s 10 hdg sub [A2012-13](#) amdt 1.14

s 10 am [A2012-13](#) amdt 1.15, amdt 1.16; ss renum R34 LA

Advisory committee

s 11 am [A2011-22](#) amdt 1.117; [A2011-22](#) amdt 1.17; pars renum
R34 LA; [A2015-10](#) s 28; [A2015-52](#) s 17; pars renum R41 LA

Principal registrar of courts

pt 2A hdg ins [A2015-52](#) s 18

Appointment of principal registrar

s 11A ins [A2015-52](#) s 18

Administrative functions of principal registrar

s 11B ins [A2015-52](#) s 18

Ending principal registrar's appointment

s 11C ins [A2015-52](#) s 18

Principal registrar not to direct registrars in relation to court functions

s 11D ins [A2015-52](#) s 18

Fees generally

div 3.1 hdg ins [A2008-36](#) amdt 1.192

Endnotes

4 Amendment history

Definitions—pt 3

- s 12 def **energy and water consumer council** ins [A2008-22](#) amdt 1.15
om [A2009-20](#) amdt 3.49
def **essential services consumer council** om [A2008-22](#) amdt 1.15
def **relevant legislation** sub [A2008-36](#) amdt 1.193
am [A2010-21](#) amdt 1.3; pars renum R27 LA
def **tribunal** am [A2008-22](#) amdt 1.16
om [A2008-36](#) amdt 1.194

Determination of fees

- s 13 am [A2006-40](#) amdt 2.88, amdt 2.89; [A2008-36](#) amdt 1.195;
[A2011-3](#) amdt 3.149

Payment of fees

- s 14 am [A2008-36](#) amdt 1.196

Remission, refund, deferral, waiver and exemption of fees

- s 15 am [A2005-13](#) amdt 1.21; [A2006-25](#) amdt 2.4; [A2006-55](#) s 7;
[A2008-20](#) amdt 2.15, amdt 2.16, amdt 4.12, amdt 4.13;
[A2008-36](#) amdts 1.197-1.199; ss renum R21 LA; [A2008-46](#)
amdt 3.9

Recovery of fees in civil proceedings if fees not otherwise payable

- s 16 am [A2008-36](#) amdt 1.200, amdt 1.201; [A2015-52](#) s 19

Review of decisions—fees

- div 3.2 hdg ins [A2008-36](#) amdt 1.202

Meaning of *reviewable decision*—div 3.2

- s 18 sub [A2008-36](#) amdt 1.202

Reviewable decisions—court

- s 18A ins [A2008-36](#) amdt 1.202
am [A2015-10](#) s 28

Reviewable decisions—ACAT

- s 18B ins [A2008-36](#) amdt 1.202

No fee for review by court or ACAT

- s 18C ins [A2008-36](#) amdt 1.202

Definitions—pt 4

- s 20 def **judgment** sub [A2008-36](#) amdt 1.203
def **proceeding** sub [A2008-36](#) amdt 1.203

Proceedings by and against the Crown generally

s 21 reloc from [Crown Proceedings Act 1992](#) s 5 by [A2004-60](#) amdt 1.118
am [A2005-20](#) amdt 3.97, amdt 3.98; [A2008-36](#) amdt 1.204

Immunities and limitations of liability

s 22 reloc from [Crown Proceedings Act 1992](#) s 6 by [A2004-60](#) amdt 1.118

Corresponding laws of States and other Territories

s 23 reloc from [Crown Proceedings Act 1992](#) s 7 by [A2004-60](#) amdt 1.118

Injunctive relief

s 24 reloc from [Crown Proceedings Act 1992](#) s 8 by [A2004-60](#) amdt 1.118

Protection of confidentiality on grounds of public interest

s 25 reloc from [Crown Proceedings Act 1992](#) s 9 by [A2004-60](#) amdt 1.118

Right of Attorneys-General of other jurisdictions to appear in proceedings

s 26 reloc from [Crown Proceedings Act 1992](#) s 10 by [A2004-60](#) amdt 1.118
am [A2005-20](#) amdt 3.99

Right of Attorney-General to intervene in proceedings

s 27 reloc from [Crown Proceedings Act 1992](#) s 11 by [A2004-60](#) amdt 1.118
am [A2005-20](#) amdt 3.100; ss renum R4 LA (see [A2005-20](#) amdt 3.101); [A2008-36](#) amdt 1.205, amdt 1.206

Fees and charges in proceedings

s 28 hdg sub [A2008-36](#) amdt 1.207
s 28 reloc from [Crown Proceedings Act 1992](#) s 12 by [A2004-60](#) amdt 1.118
am [A2008-36](#) amdt 1.208

Enforcement of judgments against Territory Crown

s 29 reloc from [Crown Proceedings Act 1992](#) s 13 by [A2004-60](#) amdt 1.118
am [A2008-36](#) amdt 1.209; [A2012-13](#) amdt 1.18

Enforcement of judgments against Crown in right of a State or another Territory

s 30 reloc from [Crown Proceedings Act 1992](#) s 13A by [A2004-60](#) amdt 1.118
am [A2008-36](#) amdt 1.210

Endnotes

4 Amendment history

Enforcement of judgments by the Crown

s 31 reloc from [Crown Proceedings Act 1992](#) s 14 by [A2004-60](#) amdt 1.118
sub [A2008-36](#) amdt 1.211

Endorsement etc of originating process

s 32 reloc from [Crown Proceedings Act 1992](#) s 15 by [A2004-60](#) amdt 1.121

Service generally

s 33 reloc from [Crown Proceedings Act 1992](#) s 16 by [A2004-60](#) amdt 1.125

Service of subpoenas etc on Ministers

s 34 reloc from [Crown Proceedings Act 1992](#) s 17 by [A2004-60](#) amdt 1.128

Representation if right to legal representation restricted

s 35 reloc from [Crown Proceedings Act 1992](#) s 19 by [A2004-60](#) amdt 1.133
am [A2011-22](#) amdt 1.117

Exclusion of certain proceedings

s 36 reloc from [Crown Proceedings Act 1992](#) s 20 by [A2004-60](#) amdt 1.136

Regulations for pt 4

s 37 reloc from [Crown Proceedings Act 1992](#) s 21 by [A2004-60](#) amdt 1.136

Definitions—pt 5

s 40 def **assistant sheriff** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
def **court** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
am [A2005-20](#) amdt 3.102, amdt 3.103; [A2008-36](#) amdt 1.212; pars renum R21 LA
def **court premises** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
def **deputy sheriff** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
def **explosive** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
def **firearm** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
sub [A2008-25](#) amdt 2.1
def **judge** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
am [A2015-10](#) s 28

def **magistrate** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
 def **offensive weapon** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
 def **screening search** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
 def **security officer** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
 def **sheriff** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102
 def **sheriff's officer** reloc from [Court Security Act 2001](#) dict by [A2004-60](#) amdt 1.102

Right of entry etc to court premises

s 41 reloc from [Court Security Act 2001](#) s 5 by [A2004-60](#) amdt 1.99 am [A2008-36](#) amdt 1.213, amdt 1.214; pars renum R21 LA; [A2008-20](#) amdt 4.14; [A2011-4](#) s 49; pars renum R30 LA; [A2011-48](#) amdt 1.16; [A2012-21](#) amdt 3.31, amdt 3.32; [A2012-20](#) s 31; pars renum R36 LA

Powers under Act additional to other powers

s 42 reloc from [Court Security Act 2001](#) s 6 by [A2004-60](#) amdt 1.99

Security officer to be identified before exercising powers

s 43 reloc from [Court Security Act 2001](#) s 7 by [A2004-60](#) amdt 1.99

Person may be required to state name etc

s 44 reloc from [Court Security Act 2001](#) s 8 by [A2004-60](#) amdt 1.99

Searches

s 45 reloc from [Court Security Act 2001](#) s 9 by [A2004-60](#) amdt 1.99 am [A2009-44](#) amdt 1.21; [A2015-11](#) amdt 1.24

Seizure and forfeiture of firearms etc

s 46 reloc from [Court Security Act 2001](#) s 10 by [A2004-60](#) amdt 1.99

Security officer may require thing that may hide firearms etc to be left

s 47 reloc from [Court Security Act 2001](#) s 11 by [A2004-60](#) amdt 1.99

Unlawful, disorderly conduct etc

s 48 reloc from [Court Security Act 2001](#) s 12 by [A2004-60](#) amdt 1.99

Contravention of requirement of security officer

s 49 reloc from [Court Security Act 2001](#) s 13 by [A2004-60](#) amdt 1.99

Endnotes

4 Amendment history

Judge, magistrate or presidential member may close court premises

s 50 hdg am [A2008-36](#) amdt 1.215
s 50 reloc from [Court Security Act 2001](#) s 15 by [A2004-60](#)
amdt 1.99
am [A2008-36](#) amdt 1.215, amdt 1.216

Security officers

s 51 reloc from [Court Security Act 2001](#) s 16 by [A2004-60](#)
amdt 1.99
am [A2011-22](#) amdt 1.117

Identity cards for security officers

s 52 reloc from [Court Security Act 2001](#) s 17 by [A2004-60](#)
amdt 1.99
am [A2011-22](#) amdt 1.117

Procedural provisions—all proceedings

pt 6 hdg **orig pt 6 hdg**
renum as pt 9 hdg
prev pt 6 hdg
ins [A2005-60](#) amdt 1.35
reloc to [Evidence \(Miscellaneous Provisions\) Act 1991](#) pt 6 by
[A2006-40](#) amdt 2.90
pres pt 6 hdg
ins [A2006-40](#) amdt 2.91

Application—pt 6

s 53 **orig s 53**
renum as s 80
prev s 53
reloc from [Evidence Act 1971](#) s 82 by [A2005-60](#) amdt 1.61
reloc to [Evidence \(Miscellaneous Provisions\) Act 1991](#) s 90 by
[A2006-40](#) amdt 2.90
pres s 53
ins [A2006-40](#) amdt 2.91

Delegation by secretary of rule-making committee

s 53A renum as s 81

Prohibition of publication of evidence etc

s 54 **orig s 54**
renum as s 82
prev s 54
reloc from [Evidence Act 1971](#) s 83 by [A2005-60](#) amdt 1.61
reloc to [Evidence \(Miscellaneous Provisions\) Act 1991](#) s 91 by
[A2006-40](#) amdt 2.90
pres s 54
ins [A2006-40](#) amdt 2.91

Procedural provisions—criminal proceedings

pt 6A hdg ins [A2011-48](#) amdt 1.17

Provision of interpreters

s 55 reloc from [Evidence Act 1971](#) s 84 by [A2005-60](#) amdt 1.61
reloc to [Evidence \(Miscellaneous Provisions\) Act 1991](#) s 92 by
[A2006-40](#) amdt 2.90
ins [A2011-48](#) amdt 1.17

Procedural provisions—civil proceedings

pt 7 hdg orig pt 7 hdg renum as pt 10 hdg
ins [A2005-60](#) amdt 1.35
sub [A2006-40](#) amdt 2.91

General

div 7.1 hdg renum as div 10.1 hdg

Application—pt 7

s 56 reloc from [Evidence Act 1971](#) s 85A by [A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91

Definitions—pt 7

s 57 reloc from [Evidence Act 1971](#) s 85B by [A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91
def **examination** reloc from [Evidence Act 1971](#) s 85B by
[A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91
def **inferior court** reloc from [Evidence Act 1971](#) s 85B by
[A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91
def **judicial authority** reloc from [Evidence Act 1971](#) s 85B by
[A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91

Supreme Court proceedings

s 58 reloc from [Evidence Act 1971](#) s 85C by [A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91

Inferior court proceedings

s 59 reloc from [Evidence Act 1971](#) s 85D by [A2005-60](#) amdt 1.72
om [A2006-40](#) amdt 2.91

Application—pt 7

s 60 orig s 60 renum as s 100
reloc from [Evidence Act 1971](#) s 85E by [A2005-60](#) amdt 1.72
sub [A2006-40](#) amdt 2.91

Counterclaims and third parties

s 61 orig s 61 renum as s 101
reloc from [Evidence Act 1971](#) s 85F by [A2005-60](#) amdt 1.72
sub [A2006-40](#) amdt 2.91

Endnotes

4 Amendment history

Arrest on mesne process

div 7.2 hdg renum as div 10.2 hdg

Injunctions

s 62 orig s 62 renum as s 102
reloc from [Evidence Act 1971](#) s 85G by [A2005-60](#) amdt 1.72
sub [A2006-40](#) amdt 2.91

Receivers

s 63 orig s 63 renum as s 103
reloc from [Evidence Act 1971](#) s 85H by [A2005-60](#) amdt 1.72
sub [A2006-40](#) amdt 2.91

Attachment of earnings

div 7.3 hdg renum as div 10.3 hdg

Stay of proceedings

div 7.4 hdg renum as div 10.4 hdg

Set-off of debts

div 7.5 hdg renum as div 10.5 hdg

Judgment creditors remedies

div 7.6 hdg renum as div 10.6 hdg

Rules of practice and procedure—judicial discretion

s 64 orig s 64 renum as s 104
reloc from [Evidence Act 1971](#) s 85J by [A2005-60](#) amdt 1.80
sub [A2006-40](#) amdt 2.91
def **request** reloc from [Evidence Act 1971](#) s 85J by [A2005-60](#)
amdt 1.80
om [A2006-40](#) amdt 2.91
def **requesting court** reloc from [Evidence Act 1971](#) s 85J by
[A2005-60](#) amdt 1.80
om [A2006-40](#) amdt 2.91

Appearance by lawyer

s 65 orig s 65 renum as s 105
reloc from [Evidence Act 1971](#) s 85K by [A2005-60](#) amdt 1.80
sub [A2006-40](#) amdt 2.91

Non-appearance or absence of some defendants

s 66 orig s 66 renum as s 106
reloc from [Evidence Act 1971](#) s 85L by [A2005-60](#) amdt 1.80
om [A2006-40](#) amdt 2.91
reloc from [Supreme Court Act 1933](#) s 58 by [A2006-40](#)
amdt 2.203

Amendment of defects

s 67 orig s 67 renum as s 107
 reloc from [Evidence Act 1971](#) s 85M by [A2005-60](#) amdt 1.80
 om [A2006-40](#) amdt 2.91
 reloc from [Supreme Court Act 1933](#) s 59 by [A2006-40](#)
 amdt 2.204

Formal defects to be amended

s 68 orig s 68 renum as s 108
 reloc from [Evidence Act 1971](#) s 85N by [A2005-60](#) amdt 1.80
 om [A2006-40](#) amdt 2.91
 reloc from [Supreme Court Act 1933](#) s 60 by [A2006-40](#)
 amdt 2.204
 am [A2011-3](#) amdt 3.150, amdt 3.151

Procedural provisions—proceedings involving children or young people

pt 7A hdg ins [A2008-19](#) amdt 1.15

General

div 7A.1 hdg ins [A2008-19](#) amdt 1.15

Definitions—pt 7A and div 7A.1

s 68A ins [A2013-19](#) amdt 3.49
 def *care and protection chapters* ins [A2013-19](#) amdt 3.49
 def *child* ins [A2013-19](#) amdt 3.49
 def *daily care responsibility* ins [A2013-19](#) amdt 3.49
 def *director-general* ins [A2013-19](#) amdt 3.49
 def *long-term care responsibility* ins [A2013-19](#) amdt 3.49
 def *victim* ins [A2013-19](#) amdt 3.49
 def *young person* ins [A2013-19](#) amdt 3.49

Childrens Court procedure

s 69 orig s 69 renum as s 109
 ins [A2008-19](#) amdt 1.15

Application for order nisi for discharge

s 70 renum as s 110

When parents must attend court proceedings

s 71 orig s 71 renum as s 111
 ins [A2008-19](#) amdt 1.15
 am [A2009-24](#) amdt 1.3, amdt 1.4; [A2013-19](#) amdt 3.50,
 amdt 3.51

Court proceedings involving children or young people not open to public

s 72 orig s 72 renum as s 112
 ins [A2008-19](#) amdt 1.15
 am [A2009-24](#) amdt 1.5; [A2011-22](#) amdt 1.117; [A2011-13](#)
 amdt 1.2; [A2013-19](#) amdts 3.52-3.55

Endnotes

4 Amendment history

Court may excuse parties from attending proceedings

s 73 orig s 73 renum as s 113
ins [A2008-19](#) amdt 1.15

Certain related applications may be heard together

s 74 orig s 74 renum as s 114
ins [A2008-19](#) amdt 1.15

Participation of children and young people in proceedings

s 74A ins [A2008-19](#) amdt 1.15
am [A2011-22](#) amdt 1.117; [A2013-19](#) amdt 3.56

Court must ensure children and young people etc understand proceedings

s 74B ins [A2008-19](#) amdt 1.15

Director-general and public advocate etc may appear at proceedings

s 74C hdg am [A2011-22](#) amdt 1.117
s 74C ins [A2008-19](#) amdt 1.15
am [A2011-22](#) amdt 1.117; [A2013-19](#) amdt 3.56

Court may order report about young person

s 74D ins [A2008-19](#) amdt 1.15
am [A2011-22](#) amdt 1.117; [A2013-19](#) amdt 3.56

Children and young people may have legal and other representative

s 74E ins [A2008-19](#) amdt 1.15

Leave needed for litigation guardian

s 74F ins [A2008-19](#) amdt 1.15

Legal representation of children and young people

s 74G ins [A2008-19](#) amdt 1.15

Orders about legal representation of children and young people—all proceedings

s 74H ins [A2008-19](#) amdt 1.15

Rule-making committee and court to have regard to youth justice principles

s 74I ins [A2008-19](#) amdt 1.15

Care and protection considerations in proceedings

div 7A.2 hdg ins [A2008-19](#) amdt 1.15

Definitions—div 7A.2

- s 74J ins [A2008-19](#) amdt 1.15
om [A2013-19](#) amdt 3.57
def **care and protection chapters** ins [A2008-19](#) amdt 1.15
om [A2013-19](#) amdt 3.57
def **chief executive** ins [A2008-19](#) amdt 1.15
om [A2011-22](#) amdt 1.117
def **director-general** ins [A2011-22](#) amdt 1.117
om [A2013-19](#) amdt 3.57
def **in need of care and protection** ins [A2008-19](#) amdt 1.15
om [A2013-19](#) amdt 3.57

Proceedings dismissed or adjourned for care and protection reasons

- s 74K ins [A2008-19](#) amdt 1.15
am [A2011-22](#) amdt 1.117; [A2013-19](#) amdt 3.58

Director-general must report to court and public advocate

- s 74L hdg am [A2011-22](#) amdt
s 74L ins [A2008-19](#) amdt 1.15
am [A2011-22](#) amdt 1.117

Court action after adjournment

- s 74M ins [A2008-19](#) amdt 1.15
am [A2011-22](#) amdt 1.117

Procedural provisions—industrial or work safety matters

- pt 7B hdg ins [A2013-43](#) amdt 1.1

Industrial Court procedure

- s 74N ins [A2013-43](#) amdt 1.1

Supreme Court—criminal proceedings

- pt 8 hdg orig pt 8 hdg renum as pt 11 hdg
ins [A2005-60](#) amdt 1.35
om [A2006-40](#) amdt 2.91
ins [A2006-40](#) amdt 1.10

Supreme Court criminal proceedings—preliminary

- div 8.1 hdg ins [A2006-40](#) amdt 1.10

Application—pt 8

- s 75 ins [A2006-40](#) amdt 1.10

Trial on indictment

- div 8.2 hdg ins [A2006-40](#) amdt 1.10

Supreme Court jurisdiction to make orders for conduct of indictable trials

- s 76 orig s 76 renum as s 115
ins [A2006-40](#) amdt 1.10
(5)-(7) exp 19 October 2008 (s 76 (7) (LA s 88 declaration
applies))
sub [A2015-10](#) s 24

Endnotes

4 Amendment history

Pre-trial disclosure of expert evidence

div 8.3 hdg ins [A2015-10](#) s 25

Application—div 8.3

s 77 renum as s 116
ins [A2015-10](#) s 25

Mandatory pre-trial disclosure—expert evidence

s 78 renum as s 117
ins [A2015-10](#) s 25

Prosecution notice—expert evidence

s 79 ins [A2015-10](#) s 25

Accused person's notice and reply—expert evidence

s 79A ins [A2015-10](#) s 25

Prosecution reply—expert evidence

s 79B ins [A2015-10](#) s 25

Sanctions for non-compliance with pre-trial disclosure requirements

s 79C ins [A2015-10](#) s 25

Disclosure requirement is ongoing

s 79D ins [A2015-10](#) s 25

Court may waive requirements

s 79E ins [A2015-10](#) s 25

Miscellaneous provision

s 79F ins [A2015-10](#) s 25

Miscellaneous

pt 9 hdg (prev pt 6 hdg) renum [A2005-60](#) amdt 1.36

Assignment of earnings not enforceable

s 80 orig s 80 renum as s 118
(prev s 53) def **earnings** reloc from [Earnings \(Assignment and Attachment\) Act 1966](#) s 4 by [A2004-60](#) amdt 1.146
renum [A2005-60](#) amdt 1.37
am [A2013-19](#) amdt 3.59, amdt 3.60

Court may inquire into truth of return of writ

s 80A renum as s 81

Court may inquire into truth of return of writ

s 81 **orig s 81**
renum as s 119
prev s 81
(prev s 53A) ins [A2005-20](#) amdt 3.104
renum as s 81 [A2005-60](#) amdt 1.37
am [A2006-42](#) amdt 3.26
renum as s 82
pres s 81
(prev s 80A) reloc from [Law Reform \(Miscellaneous Provisions\) Act 1955](#) s 62 by [A2006-38](#) amdt 1.7
renum as s 81 [A2006-38](#) amdt 1.4
am [A2013-19](#) amdt 3.61

Delegation by secretary of rule-making committee

s 82 **orig s 82**
renum as s 120
prev s 82
(prev s 54) renum as s 82 [A2005-60](#) amdt 1.37
renum as s 83
pres s 82
(prev s 81) renum as s 82 [A2006-38](#) amdt 1.4

Regulation-making power

s 83 **orig s 83**
renum as s 121
pres s 83
(prev s 82) renum as s 83 [A2006-38](#) amdt 1.4

Mutual debts to be set one against the other

s 84 renum as s 122

Exception

s 85 renum as s 123

Expiry of div 10.5

s 86 renum as s 124

Limitation of arrest under *ca. sa.*

s 87 renum as s 125

Fraudulent concealment or intended departure

s 88 renum as s 126

Exception for certain actions

s 89 renum as s 127

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

s 90 renum as s 128

Liability for escape

s 91 renum as s 129

Endnotes

4 Amendment history

Discharge of judgment debtor on authority of lawyer

s 92 renum as s 130

Ca. sa. may be executed on Sunday

s 93 renum as s 131

Expiry of div 10.6

s 94 renum as s 132

Temporary provisions

pt 10 hdg (prev pt 7 hdg) renum [A2005-60](#) amdt 1.38
om R8 LA

General

div 10.1 hdg (prev div 7.1 hdg) renum [A2005-60](#) amdt 1.39
om R8 LA

Expiry of existing rules

s 100 orig s 100 exp 10 January 2005 (s 100 (5))
(prev s 60) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 100 (3))

References to Magistrates Court (Civil Jurisdiction) Act etc

s 101 orig s 101 exp 10 January 2005 (s 101 (5))
(prev s 61) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 101 (8))

Arrest on mesne process

div 10.2 hdg (prev div 7.2 hdg) renum [A2005-60](#) amdt 1.39
exp 1 July 2006 (s 114)

Meaning of *capias* for div 10.2

s 102 orig s 102 exp 10 January 2005 (s 102 (3))
(prev s 62) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

No arrest on mesne process except under div 10.2

s 103 orig s 103 exp 10 January 2005 (s 103 (4))
(prev s 63) reloc from [Arrest on Mesne Process Act 1902](#) s 4
by [A2004-60](#) amdt 1.12
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Order to hold to bail

s 104 orig s 104 renum as s 150
(prev s 64) reloc from [Arrest on Mesne Process Act 1902](#) s 5
by [A2004-60](#) amdt 1.12
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Issue of writ of capias

s 105 orig s 105 renum as s 151
(prev s 65) reloc from [Arrest on Mesne Process Act 1902](#) s 6
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Execution of writ

s 106 (prev s 66) reloc from [Arrest on Mesne Process Act 1902](#) s 7
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Order and arrest to be during pendency of action

s 107 (prev s 67) reloc from [Arrest on Mesne Process Act 1902](#) s 8
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Defendant to remain in custody until bail bond given or deposit made

s 108 (prev s 68) reloc from [Arrest on Mesne Process Act 1902](#) s 9
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Subsequent proceedings subject to rules of court

s 109 (prev s 69) reloc from [Arrest on Mesne Process Act 1902](#) s 10
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Application for order nisi for discharge

s 110 (prev s 70) reloc from [Arrest on Mesne Process Act 1902](#) s 11
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Proceedings on order nisi

s 111 (prev s 71) reloc from [Arrest on Mesne Process Act 1902](#) s 12
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Appeal

s 112 (prev s 72) reloc from [Arrest on Mesne Process Act 1902](#) s 13
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Endnotes

4 Amendment history

Discharge on bankruptcy

s 113 (prev s 73) reloc from [Arrest on Mesne Process Act 1902](#) s 14
by [A2004-60](#) amdt 1.15
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Expiry—div 10.2

s 114 (prev s 74) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 114)

Attachment of earnings

div 10.3 hdg (prev div 7.3 hdg) renum [A2005-60](#) amdt 1.39
exp 1 July 2006 (s 117)

Definitions—div 10.3

s 115 (prev s 76) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 117)
def **court** reloc from [Earnings \(Assignment and Attachment\) Act 1966](#) s 4 by [A2004-60](#) amdt 1.147
def **dependant** reloc from [Earnings \(Assignment and Attachment\) Act 1966](#) s 4 by [A2004-60](#) amdt 1.147
def **judgment debtor** reloc from [Earnings \(Assignment and Attachment\) Act 1966](#) s 4 by [A2004-60](#) amdt 1.147
def **Metal Trades Award** reloc from [Earnings \(Assignment and Attachment\) Act 1966](#) s 4 by [A2004-60](#) amdt 1.147

Limitation on attachment of wages

s 116 (prev s 77) reloc from [Earnings \(Assignment and Attachment\) Act 1966](#) s 5 by [A2004-60](#) amdt 1.148
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 117)

Expiry of div 10.3

s 117 (prev s 78) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 117)

Stay of proceedings

div 10.4 hdg (prev div 7.4 hdg) renum [A2005-60](#) amdt 1.39
exp 1 July 2006 (s 121)

Stay of proceedings

s 118 (prev s 80) reloc from [Judiciary \(Stay of Proceedings\) Act 1933](#) s 3 by [A2004-60](#) amdt 1.161
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 121)

Stay of execution

s 119 (prev s 81) reloc from [Judiciary \(Stay of Proceedings\) Act 1933](#) s 4 by [A2004-60](#) amdt 1.161
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 121)

Rescission or variation of previous direction or order

s 120 (prev s 82) reloc from [Judiciary \(Stay of Proceedings\) Act 1933](#) s 5 by [A2004-60](#) amdt 1.161
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 121)

Expiry of div 10.4

s 121 (prev s 83) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 121)

Set-off of debts

div 10.5 hdg (prev div 7.5 hdg) renum [A2005-60](#) amdt 1.39
exp 1 July 2006 (s 124)

Mutual debts to be set one against the other

s 122 (prev s 84) reloc from [Set-off of Debts Act 1735](#) s 13 by
[A2004-60](#) amdt 1.631
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 124)

Exception

s 123 (prev s 85) reloc from [Set-off of Debts Act 1735](#) s 5 by
[A2004-60](#) amdt 1.633
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 124)

Expiry of div 10.5

s 124 (prev s 86) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 124)

Judgment creditors remedies

div 10.6 hdg (prev div 7.6 hdg) renum [A2005-60](#) amdt 1.39
exp 1 July 2006 (s 132)

Limitation of arrest under *ca. sa.*

s 125 (prev s 87) reloc from [Judgment Creditors Remedies Act 1901](#)
s 19 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Fraudulent concealment or intended departure

s 126 (prev s 88) reloc from [Judgment Creditors Remedies Act 1901](#)
s 20 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Exception for certain actions

s 127 (prev s 89) reloc from [Judgment Creditors Remedies Act 1901](#)
s 21 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Endnotes

4 Amendment history

Ca. sa. to fix bail

s 128 (prev s 90) reloc from [Judgment Creditors Remedies Act 1901](#) s 22 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Liability for escape

s 129 (prev s 91) reloc from [Judgment Creditors Remedies Act 1901](#) s 23 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Discharge of judgment debtor on authority of lawyer

s 130 (prev s 92) reloc from [Judgment Creditors Remedies Act 1901](#) s 24 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Ca. sa. may be executed on Sunday

s 131 (prev s 93) reloc from [Judgment Creditors Remedies Act 1901](#) s 26 by [A2004-60](#) amdt 1.159
renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Expiry of div 10.6

s 132 (prev s 94) renum [A2005-60](#) amdt 1.40
exp 1 July 2006 (s 132)

Supreme Court

div 10.7 hdg ins [A2005-60](#) amdt 1.41
exp 1 July 2006 (s 139)

Exercise of jurisdiction by registrar

s 133 ins [A2005-60](#) amdt 1.42
exp 1 July 2006 (s 139)

Costs

s 134 reloc from [Supreme Court Act 1933](#) s 23 by [A2005-60](#) amdt 1.137
exp 1 July 2006 (s 139)

Date of process

s 135 reloc from [Supreme Court Act 1933](#) s 66 by [A2005-60](#) amdt 1.141
exp 1 July 2006 (s 139)

Expiry of div 10.7

s 139 ins [A2005-60](#) amdt 1.43
exp 1 July 2006 (s 139)

Business names—starting legal proceedings

div 10.8 hdg ins [A2005-60](#) amdt 1.44
exp 1 July 2006 (s 141)

Effect of certain contraventions of Business Names Act on legal proceedings

s 140 reloc from [Business Names Act 1963](#) s 27 by [A2005-60](#)
amdt 1.9
exp 1 July 2006 (s 141)

Expiry of div 10.8

s 141 ins [A2005-60](#) amdt 1.45
exp 1 July 2006 (s 141)

Transitional

pt 11 hdg (prev pt 8 hdg) renum [A2005-60](#) amdt 1.46
exp 10 January 2007 (s 151)

Modification of pt 11's operation

s 150 (prev s 104) renum [A2005-60](#) amdt 1.47
exp 10 January 2007 (s 151)

Expiry of pt 11

s 151 (prev s 105) renum [A2005-60](#) amdt 1.48
exp 10 January 2007 (s 151)

Transitional—rules of court

pt 12 hdg ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506)

Transitional regulations

s 500 ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506)

Construction of outdated references

s 501 ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506 (LA s 88 declaration applies))

Abolition of old enforcement processes

s 502 ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506 (LA s 88 declaration applies))

Right to claim set-off

s 503 ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506 (LA s 88 declaration applies))

Abolition of distinction between court and chambers

s 504 ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506 (LA s 88 declaration applies))

Endnotes

4 Amendment history

Application of sch 1 amendments

s 505 ins [A2006-40](#) amdt 2.92
exp 29 November 2006 (s 505 (3) (LA s 88 declaration applies))

Expiry—pt 12

s 506 ins [A2006-40](#) amdt 2.92
exp 1 July 2008 (s 506)

Transitional—Children and Young People Act 2008

pt 13 hdg ins [A2008-20](#) amdt 1.2
exp 27 February 2011 (s 514 (LA s 88 declaration applies))

Meaning of *commencement day*—pt 13

s 510 ins [A2008-20](#) amdt 1.2
exp 27 February 2011 (s 514 (LA s 88 declaration applies))

Notices to attend court proceeding

s 511 ins [A2008-20](#) amdt 1.2
exp 27 February 2011 (s 514) (LA s 88 declaration applies)

Existing proceedings

s 512 ins [A2008-20](#) amdt 1.2
exp 27 February 2011 (s 514 (LA s 88 declaration applies))

Transitional regulations

s 513 ins [A2008-20](#) amdt 1.2
exp 27 February 2011 (s 514)

Expiry—pt 13

s 514 ins [A2008-20](#) amdt 1.2
exp 27 February 2011 (s 514 (LA s 88 declaration applies))

Jurisdiction

sch 1 item 1 am [A2015-10](#) s 28

Miscellaneous

sch 1 item 6 am [A2006-40](#) amdt 2.93

Parties and proceedings

sch 1 item 9 am [A2006-40](#) amdt 2.94

Steps in proceedings

sch 1 item 10 sub [A2006-40](#) amdt 2.95

Disclosure

sch 1 item 12 am [A2006-40](#) amdt 2.96

Preservation of rights and property

sch 1 item 13 sub [A2006-40](#) amdt 2.97

Trials and other hearings

sch 1 item 17 am [A2006-40](#) amdt 2.98

Particular proceedings

sch 1 item 19 am [A2006-40](#) amdt 2.99

Contempt of court

sch 1 item 24 am [A2006-40](#) amdts 2.100-2.102
sub [A2006-55](#) s 8

Costs

sch 1 item 26 am [A2006-40](#) amdt 2.103

New Magistrates Court (Civil Jurisdiction) Rules 2004

sch 2 om LA s 89 (3)

Dictionary

dict am [A2005-60](#) amdt 1.49; [A2008-36](#) amdts 1.217-1.219;
[A2011-22](#) amdt 1.117; [A2012-21](#) amdt 3.33; [A2015-10](#) s 26
def **care and protection chapters** ins [A2013-19](#) amdt 3.62
def **child** ins [A2008-19](#) amdt 1.16
def **daily care responsibility** ins [A2013-19](#) amdt 3.62
def **director-general** ins [A2013-19](#) amdt 3.62
def **examination** ins [A2005-60](#) amdt 1.50
om R10 LA
def **firearm** sub [A2008-25](#) amdt 2.2
def **inferior court** ins [A2005-60](#) amdt 1.50
om R10 LA
def **judicial authority** ins [A2005-60](#) amdt 1.50
om R10 LA
def **long-term care responsibility** ins [A2013-19](#) amdt 3.62
def **master** om [A2015-10](#) s 27
def **principal registrar** ins [A2015-52](#) s 21
def **request** ins [A2005-60](#) amdt 1.50
om R10 LA
def **requesting court** ins [A2005-60](#) amdt 1.50
om R10 LA
def **reviewable decision** ins [A2008-36](#) amdt 1.220
def **tribunal** om [A2009-20](#) amdt 3.50
def **victim** ins [A2013-19](#) amdt 3.62
def **young person** ins [A2008-19](#) amdt 1.16

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 and date	Effective	Last amendment made by	Republication for
R1 10 Jan 2005	10 Jan 2005– 10 Jan 2005	A2004-60	new Act and amendments by A2004-60
R2* 11 Jan 2005	11 Jan 2005– 24 Mar 2005	A2004-60	commenced expiry
R3 25 Mar 2005	25 Mar 2005– 1 June 2005	A2005-13	amendments by A2005-13
R4 2 June 2005	2 June 2005– 21 Dec 2005	A2005-20	amendments by A2005-20
R5 22 Dec 2005	22 Dec 2005– 10 Jan 2006	A2005-60	amendments by A2005-60
R6 11 Jan 2006	11 Jan 2006– 30 June 2006	A2005-60	amendments by A2005-60
R7 1 July 2006	1 July 2006– 1 July 2006	A2006-25	amendments by A2006-25
R8 2 July 2006	2 July 2006– 28 Sept 2006	A2006-25	commenced expiry
R9 29 Sept 2006	29 Sept 2006– 18 Oct 2006	A2006-40	amendments by A2006-40
R10 19 Oct 2006	19 Oct 2006– 15 Nov 2006	A2006-40	amendments by A2006-40
R11 16 Nov 2006	16 Nov 2006– 29 Nov 2006	A2006-42	amendments by A2006-42
R12 30 Nov 2006	30 Nov 2006– 18 Dec 2006	A2006-42	amendments by A2006-42

Republication No and date	Effective	Last amendment made by	Republication for
R13 19 Dec 2006	19 Dec 2006– 10 Jan 2007	A2006-55	amendments by A2006-55
R14 11 Jan 2007	11 Jan 2007– 27 Mar 2007	A2006-55	commenced expiry
R15* 28 Mar 2007	28 Mar 2007– 1 July 2008	A2006-55	amendments by A2006-38
R16 2 July 2008	2 July 2008– 28 July 2008	A2006-55	commenced expiry
R17 29 July 2008	29 July 2008– 8 Sept 2008	A2008-25	amendments by A2008-22
R18 9 Sept 2008	9 Sept 2008– 19 Oct 2008	A2008-36	amendments by A2008-20
R19 20 Oct 2008	20 Oct 2008– 14 Jan 2009	A2008-46	commenced expiry
R20 15 Jan 2009	15 Jan 2009– 1 Feb 2009	A2008-46	amendments by A2008-25
R21 2 Feb 2009	2 Feb 2009– 26 Feb 2009	A2008-46	amendments by A2008-36
R22 27 Feb 2009	27 Feb 2009– 29 Mar 2009	A2008-46	amendments by A2008-19 and A2008-20
R23* 30 Mar 2009	30 Mar 2009– 3 Sept 2009	A2008-46	amendments by A2008-46
R24 4 Sept 2009	4 Sept 2009– 21 Sept 2009	A2009-24	amendments by A2009-24
R25 22 Sept 2009	22 Sept 2009– 21 Dec 2009	A2009-24	amendments by A2009-20
R26 22 Dec 2009	22 Dec 2009– 30 June 2010	A2009-44	amendments by A2009-44
R27 1 July 2010	1 July 2010– 27 Feb 2011	A2010-21	amendments by A2010-21
R28 28 Feb 2011	28 Feb 2011– 28 Feb 2011	A2011-4	expiry of transitional provisions (pt 13)

Endnotes

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R29 1 Mar 2011	1 Mar 2011– 9 Mar 2011	A2011-4	amendments by A2011-3
R30 10 Mar 2011	10 Mar 2011– 30 June 2011	A2011-4	amendments by A2011-4
R31 1 July 2011	1 July 2011– 24 July 2011	A2011-22	amendments by A2011-22
R32* 25 July 2011	25 July 2011– 29 Feb 2012	A2011-22	amendments by A2011-13
R33 1 Mar 2012	1 Mar 2012– 11 Apr 2012	A2011-48	amendments by A2011-48
R34 12 Apr 2012	12 Apr 2012– 4 June 2012	A2012-13	amendments by A2012-13
R35 5 June 2012	5 June 2012– 12 Sept 2012	A2012-21	amendments by A2012-21
R36* 13 Sept 2012	13 Sept 2012– 13 June 2013	A2012-20	amendments by A2012-20
R37 14 June 2013	14 June 2013– 7 Nov 2013	A2013-19	amendments by A2013-19
R38 8 Nov 2013	8 Nov 2013– 20 Apr 2015	A2013-43	amendments by A2013-43
R39 21 Apr 2015	21 Apr 2015– 20 May 2015	A2015-10	amendments by A2015-10
R40 21 May 2015	21 May 2015– 9 Dec 2015	A2015-11	amendments by A2015-11

© Australian Capital Territory 2015