

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Magistrates Court (Civil Jurisdiction)
(Amendment) Bill 1991**

A BILL

FOR

**An Act to amend the *Magistrates Court (Civil
Jurisdiction) Act 1982***

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Citation

- 5 1. This Act may be cited as the *Magistrates Court (Civil Jurisdiction) (Amendment) Act 1991*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
10 (2) Subject to subsection (3), the remaining provisions commence on a day, or on respective days, fixed by the Minister by notice in the *Gazette*.

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(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 **Principal Act**

3. In this Act, "Principal Act" means the *Magistrates Court (Civil Jurisdiction) Act 1982*.

Interpretation

10 4. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definition:

 " 'determined fee' means the fee determined by the Minister under section 307B for the purposes of the provision in which the expression occurs;"

Lodgment and filing of originating process

15 5. Section 11 of the Principal Act is amended by omitting from subsection (2) ", she or he" and substituting "and the determined fee has been paid, the clerk".

Proceedings by application

20 6. Section 20 of the Principal Act is amended by adding at the end of subsection (3) "and be accompanied by the determined fee".

Service of originating process by post

7. Section 22 of the Principal Act is amended by inserting in subsection (1) "and paying the determined fee," after "as the case requires,".

Court fees

25 8. Section 292 of the Principal Act is amended—

(a) by omitting from subsection (1) all words after "court fees as" and substituting "determined under section 307B are payable";

(b) by inserting after subsection (1) the following subsection:

30 "(1A) Without limiting the generality of subsection (1), court fees as determined under section 307B are payable in respect of an application—

(a) under subsection 13A (1) of the *Motor Traffic Act 1936*;
or

35 (b) under subsection 36 (2) or 40 (1) of the *Motor Traffic (Alcohol and Drugs) Act 1977*.";

(c) by omitting from subsection (2) "prescribed fee" and substituting "determined fee"; and

(d) by inserting after subsection (4) the following subsection:

"(4A) Where—

- 5 (a) pursuant to subsection (4) a court fee is not payable by a person;
- (b) in the relevant proceedings, judgment is given or entered in favour of that person; and
- 10 (c) that person's costs in the proceedings are payable by the other party to the proceedings;

the Court shall order the other party to pay to the clerk by way of costs, in addition to any other costs, an amount equal to the amount that would have been payable by the first-mentioned person but for subsection (4)."

15 **Copies of judgments, certificates etc.**

9. Section 306 of the Principal Act is amended by omitting from subsection (1) "prescribed" and substituting "determined".

Inspection of records of default judgments

10. Section 306A of the Principal Act is amended—

- 20 (a) by omitting "prescribed" and substituting "determined";
- (b) by adding at the end of subparagraph (a) (ii) "or";
- (c) by omitting paragraph (c); and
- (d) by adding at the end the following subsection:

25 "(2) The determined fee under subsection (1) is not payable where the person who would, but for this subsection, be liable to pay the fee is or was a party, or the legal representative of a party, to the proceedings in which the relevant judgment was given or entered."

Insertion

30 11. After section 307A of the Principal Act the following section is inserted:

Power of Minister to determine fees

“307B. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.”.

Repeal

- 5 **12.** The Magistrates Court (Civil Jurisdiction) (Fees) Regulations are repealed.

NOTE

1. Ordinance No. 54, 1982 as amended by Nos. 76 and 77, 1984; Nos. 9 and 67, 1985; Nos. 14, 53 and 74, 1986; No. 13, 1987; No. 81, 1988; Nos. 21, 25, 36, 38, 56 and 58, 1989; No. 5, 1990.