

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2005 (No 3)

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(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2005 (No 3)

A Bill for

An Act to amend laws relating to justice and community safety

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

1 **1 Name of Act**

2 This Act is the *Justice and Community Safety Legislation*
3 *Amendment Act 2005 (No 3)*.

4 **2 Commencement**

5 (1) Schedule 1, part 1.2 (Business Names Act 1963) commences on the
6 later of—

7 (a) the commencement of the *Statute Law Amendment Act 2005*
8 *(No 2)*, amendment 3.95 (which remakes the *Business Names*
9 *Act 1963*, section 27); and

10 (b) 21 days after this Act's notification day.

11 (2) Schedule 1, part 1.9 (Coroners Act 1997) commences on the later
12 of—

13 (a) the commencement of the *Criminal Code Harmonisation*
14 *Act 2005*; and

15 (b) 21 days after this Act's notification day.

16 (3) The remaining provisions commence 21 days after this Act's
17 notification day.

18 *Note* The naming and commencement provisions automatically commence on
19 the notification day (see Legislation Act, s 75 (1)).

20 **3 Legislation amended—sch 1**

21 This Act amends the legislation mentioned in schedule 1.

22 **4 Legislation repealed**

23 The following regulations are repealed:

- 24 • *Evidence Regulation 1992* SL1992-9
25 • *Fair Trading Regulation 1995* SL1995-1.

1 **Schedule 1** **Legislation amended**

2 (see s 3)

3 **Part 1.1** **Administration and Probate Act**
4 **1929**

5 **[1.1]** **Section 5 (1), definition of *seal of the court***

6 *omit*

7 **[1.2]** **Section 7B heading**

8 *substitute*

9 **7B** **Signature stamp**

10 **[1.3]** **Section 7B (1) and (2)**

11 *omit*

12 **[1.4]** **Section 7B (3) and (4)**

13 *renumber as section 7B (1) and (2)*

14 **Part 1.2** **Business Names Act 1963**

15 **[1.5]** **Section 27 heading**

16 *substitute*

17 **27** **Effect of certain contraventions of Business Names Act**
18 **on legal proceedings**

1 **[1.6] Section 27 (1)**
2 *omit*
3 this Act
4 *substitute*
5 the *Business Names Act 1963*

6 **[1.7] Section 27 (1) (c)**
7 *omit*
8 section 12
9 *substitute*
10 that Act, section 12

11 **[1.8] New section 27 (4)**
12 *insert*
13 (4) A term defined in the *Business Names Act 1963* has the same
14 meaning in this section.

15 **[1.9] Section 27 (as amended)**
16 *relocate to Court Procedures Act 2004, division 7.8 as section 99*

17 **Part 1.3 Children and Young People**
18 **Act 1999**

19 **[1.10] New section 53 (4)**
20 *insert*
21 (4) The Childrens Court must have a seal.

1 Part 1.4 Civil Law (Wrongs) Act 2002

2 [1.11] Section 50 (3) and (4)

3 *substitute*

4 (3) Also, this chapter does not apply to a claim for damages for personal
5 injury if a claim for compensation has been made under the *Workers*
6 *Compensation Act 1951* in relation to the injury.

7 (4) Despite subsection (3), part 5.2 (Claims procedures) applies to a
8 claim for damages for personal injury, even though a claim for
9 compensation may have been made under the *Workers*
10 *Compensation Act 1951* in relation to the injury, if—

11 (a) the *Road Transport (General) Act 1999*, part 10 applies to the
12 claim; or

13 (b) the claim is made against a person who is not an employer or
14 insurer in relation to the injury under the *Workers*
15 *Compensation Act 1951*, chapter 6 (Claims) even though it is
16 also made against such a person.

17 [1.12] Section 205

18 *omit*

19 On or before 31 October

20 *substitute*

21 Within 5 sitting days after 1 October

1 **Part 1.5** **Classification (Publications,**
2 **Films and Computer Games)**
3 **(Enforcement) Act 1995**

4 **[1.13] Section 64**

5 *substitute*

6 **64 Starting prosecutions for offences**

7 (1) A prosecution for an offence against this Act in relation to a film,
8 publication or computer game that is unclassified at the time of the
9 offence—

10 (a) must not be started until the film, publication or computer
11 game has been classified; but

12 (b) may be started not later than 1 year after the day the film,
13 publication or computer game is classified.

14 (2) Subsection (1) (a) does not apply to a prosecution for an offence
15 against any of the following provisions:

- 16 • section 7 (1)
17 • section 16
18 • section 19 (2)
19 • section 20 (1) or (2)
20 • section 27 (1) or (3)
21 • section 34 (1)
22 • section 38 (1)
23 • section 44 (2)
24 • section 45 (1) or (2)
25 • section 50 (1) or (2) (d)
26 • section 53C (1)

1 **Part 1.6** **Confiscation of Criminal Assets**
2 **Act 2003**

3 **[1.14] Section 244 (1) note 3**

4 *substitute*

5 *Note 3* Related confiscation proceedings are taken to be an interlocutory
6 application and started in accordance with the procedure of the relevant
7 court (see s 245).

8 **[1.15] Section 245 (b)**

9 *substitute*

10 (b) may be started in accordance with the procedure of the relevant
11 court.

12 **Part 1.7** **Consumer Credit Act 1995**

13 **[1.16] Section 1**

14 *substitute*

15 **1 Name of Act**

16 This Act is the *Consumer Credit Act 1995*.

17 **[1.17] Section 3, definition of *short-term credit contract***

18 *omit*

19 **[1.18] Section 3, definitions (as amended)**

20 *relocate to dictionary*

1 **[1.19] Section 3, remainder**

2 *substitute*

3 **2 Dictionary**

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

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

8 For example, the signpost definition ‘*annual percentage rate*, for
9 part 3A (Maximum annual percentage rate and disclosure)—see
10 section 8A.’ means that the term ‘annual percentage rate’ is defined in
11 that section for part 3A.

12 *Note 2* A definition in the dictionary (including a signpost definition) applies to
13 the entire Act unless the definition, or another provision of the Act,
14 provides otherwise or the contrary intention otherwise appears (see
15 Legislation Act, s 155 and s 156 (1)).

16 **3 Notes**

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

18 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
19 notes.

20 **[1.20] Section 8A, definition of *short-term credit contract***

21 *omit*

22 **[1.21] Section 8B**

23 *substitute*

24 **8B Maximum annual percentage rate**

25 (1) A regulation may prescribe a maximum annual percentage rate for a
26 credit contract to which the code applies.

- 1 (2) A regulation may require interest charges, and all credit fees and
2 charges, under a credit contract to be included in working out the
3 maximum annual percentage rate under the contract.
- 4 (3) The code, part 2, division 2 applies in relation to a prescribed
5 maximum annual percentage rate as if the rate had been prescribed
6 by the code.
- 7 *Note* The effect of s (3) is that a contract is void to the extent that it imposes a
8 monetary liability prohibited under s (1) and that any amount paid under
9 the contract may be recovered. In addition, the credit provider commits
10 an offence for entering into the contract.
- 11 (4) This section does not affect the exercise of any powers under the
12 code, part 4, division 3 in relation to a contract that is not void
13 because of this section.
- 14 *Note* The code, pt 4, div 3 allows (among other things) the reopening of
15 unjust transactions.
- 16 (5) This section applies to a credit contract whether the credit contract
17 was established before, or is established after, the commencement of
18 this section.

19 **[1.22] Section 8C (1)**

20 *omit*

21 **[1.23] Section 8C (2) to (4)**

22 *renumber as section 8C (1) to (3)*

23 **[1.24] New section 8C (4)**

24 *insert*

- 25 (4) The requirements of this section are additional to any other
26 requirements of the code, section 14 or section 15.

27 **[1.25] Sections 9 and 11**

28 *omit*

Amendment [1.26]

1 **[1.26] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

7 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 8 • Executive
- 9 • territory law
- 10 • the Territory.

11 **Part 1.8 Consumer Credit Regulation**
12 **1996**

13 **[1.27] Section 5**

14 *substitute*

15 **5 Maximum annual percentage rate—Act, s 8B**

- 16 (1) The prescribed maximum annual percentage rate is 48% per annum
17 for all credit contracts to which the code applies.
- 18 (2) Interest charges, and all credit fees and charges, under a credit
19 contract must be included in working out the maximum annual
20 percentage rate under all credit contracts to which the code applies.
- 21 (3) Despite subsection (2), any credit fees or charges arising from the
22 establishment or maintenance of a temporary credit facility are not
23 required to be included for working out the maximum annual
24 percentage rate if—

- 1 (a) the credit provider is an authorised deposit-taking institution;
2 and
3 (b) the debtor has or had an existing credit contract or debit
4 account with the authorised deposit-taking institution when the
5 temporary credit facility is or was established; and
6 (c) the temporary credit facility is related to the existing credit
7 contract or debit account.

8 **Part 1.9 Coroners Act 1997**

9 **[1.28] Section 1**

10 *substitute*

11 **1 Name of Act**

12 This Act is the *Coroners Act 1997*.

13 **[1.29] Section 3 heading**

14 *substitute*

15 **2 Dictionary**

16 **[1.30] Section 3 (1), definitions**

17 *relocate to dictionary*

18 **[1.31] Section 3 (1), remainder**

19 *substitute*

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

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

Amendment [1.32]

1 For example, the signpost definition ‘*death in custody*—see section 3.’
2 means that the term ‘death in custody’ is defined in that section.

3 *Note 2* A definition in the dictionary (including a signpost definition) applies to
4 the entire Act unless the definition, or another provision of the Act,
5 provides otherwise or the contrary intention otherwise appears (see
6 Legislation Act, s 155 and s 156 (1)).

7 **3 References to *death in custody***

8 **[1.32] Section 3 (2)**

9 *omit*

10 (2)

11 **[1.33] New section 101**

12 *insert*

13 **101 Court seal**

14 The Coroner’s Court must have a seal.

15 **[1.34] New dictionary**

16 *insert*

17 **Dictionary**

18 (see s 2)

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

21 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 22 • ACT
23 • individual
24 • Minister
25 • property

- 1 • public servant
2 • Territory.

3 *death in custody*—see section 3.

4 **Part 1.10 Court Procedures Act 2004**

5 **[1.35] New part headings**

6 *after section 52, insert*

7 **Part 6 Publication of evidence**

8 **Part 7 Examination of witnesses**
9 **outside the ACT but in Australia**

10 **Part 8 Taking evidence for foreign and**
11 **Australian courts**

12 **[1.36] Part 6**

13 *renumber as part 9*

14 **[1.37] Sections 53 to 54**

15 *renumber as sections 80 to 82*

16 **[1.38] Part 7**

17 *renumber as part 10*

18 **[1.39] Divisions 7.1 to 7.6**

19 *renumber as divisions 10.1 to 10.6*

Amendment [1.40]

1 **[1.40] Sections 60 to 94**
2 *renumber as sections 100 to 132*

3 **[1.41] New division 10.7 heading**
4 *insert*

5 **Division 10.7 Supreme Court**

6 **[1.42] New section 133**
7 *insert*

8 **133 Exercise of jurisdiction by registrar**

- 9 (1) A person who is dissatisfied with an order of the registrar of the
10 Supreme Court made in the exercise of jurisdiction given under the
11 *Supreme Court Rules 1937* may appeal, in accordance with those
12 rules, to the Supreme Court constituted by a single judge.
- 13 (2) On an appeal under subsection (1), the Supreme Court may confirm,
14 amend or set aside the registrar's order and may make any order that
15 in all the circumstances it considers just.
- 16 (3) In this section:
17 *order* includes a judgment, direction or decision, whether or not
18 final.

19 **[1.43] New section 139**
20 *insert*

21 **139 Expiry of div 10.7**

- 22 (1) This division expires on the existing rules expiry day or, if the rules
23 fix an earlier expiry day for this division, that day.

1 (2) In this section:

2 *existing rules expiry day*—see section 100 (3).

3 **[1.44] New division 10.8 heading**

4 *insert*

5 **Division 10.8 Business names—starting legal**
6 **proceedings**

7 **[1.45] New section 141**

8 *insert*

9 **141 Expiry of div 10.8**

10 (1) This division expires on the existing rules expiry day or, if the rules
11 fix an earlier expiry day for this division, that day.

12 (2) In this section:

13 *existing rules expiry day*—see section 100 (3).

14 **[1.46] Part 8**

15 *renumber as part 11*

16 **[1.47] Section 104 heading**

17 *substitute*

18 **150 Modification of pt 11's operation**

19 **[1.48] Section 105 heading**

20 *substitute*

Amendment [1.49]

1 **151 Expiry of pt 11**

2 **[1.49] Dictionary, note 2**

3 *insert*

- 4 • property

5 **[1.50] Dictionary, new definitions**

6 *insert*

7 *examination*, for part 7 (Examination of witnesses outside the ACT
8 but in Australia)—see section 57.

9 *inferior court*, for part 7 (Examination of witnesses outside the ACT
10 but in Australia)—see section 57.

11 *judicial authority*, for part 7 (Examination of witnesses outside the
12 ACT but in Australia)—see section 57.

13 *request*, for part 8 (Taking of evidence for foreign and Australian
14 courts)—see section 64.

15 *requesting court*, for part 8 (Taking of evidence for foreign and
16 Australian courts)—see section 64.

17 **Part 1.11 Crimes (Child Sex Offenders)**
18 **Act 2005**

19 **[1.51] Schedule 2, part 2.2**

20 *insert*

8A	<i>Criminal Code Act 1995 (Cwlth)</i> , section 271.4 (1) or (2)	trafficking in children	the first person (as mentioned in the subsection) intends or is reckless as to whether the other person (as mentioned in the subsection) will be used to provide sexual services or will be otherwise exploited for sexual services
8B	<i>Criminal Code Act 1995 (Cwlth)</i> , section 271.7 (1)	domestic trafficking in children	the first person (as mentioned in the subsection) intends or is reckless as to whether the other person (as mentioned in the subsection) will be used to provide sexual services or will be otherwise exploited for sexual services
8C	<i>Criminal Code Act 1995 (Cwlth)</i> , section 474.19 (1)	using carriage service for child pornography material	

Schedule 1
Part 1.12

Legislation amended
Crimes (Restorative Justice) Act 2004

Amendment [1.52]

8D	<i>Criminal Code Act 1995</i> (Cwlth), section 474.20 (1)	possessing, producing etc child pornography material for use through carriage service	
8E	<i>Criminal Code Act 1995</i> (Cwlth), section 474.26 (1), (2) or (3)	using carriage service to procure child under 16	
8F	<i>Criminal Code Act 1995</i> (Cwlth), section 474.27 (1) (2) or (3)	using carriage service to ‘groom’ child under 16	

1 **[1.52] Schedule 2, part 2.2**

2 *renumber items when Act next republished under Legislation Act*

3 **Part 1.12 Crimes (Restorative Justice) Act**
4 **2004**

5 **[1.53] Table 22, item 5**

6 *substitute*

5	chief executive (children and young people)	(a)	after a court has made a sentence-related order in relation to the offender; and
	chief executive (corrections)	(b)	before the end of the term of the sentence-related order or the sentence (if any) of which it forms part (whichever is later)
	chief executive (restorative justice)		
	sentence administration board		

1 **Part 1.13 Evidence Act 1971**

2 **[1.54] Section 6, definition of *banker's book***

3 *omit*

4 **[1.55] Part 5**

5 *omit*

6 **[1.56] Part 12 heading**

7 *omit*

8 **[1.57] Section 82 heading**

9 *substitute*

10 **82 Application of pt 6**

11 **[1.58] Section 84 heading**

12 *substitute*

Amendment [1.59]

1	84	Noncompliance with s 54 order
2	[1.59]	Section 84
3		<i>omit</i>
4		section 83
5		<i>substitute</i>
6		section 54
7	[1.60]	Sections 82 to 84 (as amended)
8		<i>relocate to Court Procedures Act 2004, part 6 as sections 53 to 55</i>
9	[1.61]	Section 85
10		<i>omit</i>
11	[1.62]	Section 12A heading
12		<i>omit</i>
13	[1.63]	Section 85A heading
14		<i>substitute</i>
15	85A	Application of pt 7
16	[1.64]	Section 85B heading
17		<i>substitute</i>
18	85B	Definitions for pt 7
19	[1.65]	Section 85D (1)
20		<i>omit</i>
21		section 85C (1)
22		<i>substitute</i>

1 section 58 (1)

2 **[1.66] Section 85D (2)**

3 *omit*

4 sections 85C (5) (6) and (7)

5 *substitute*

6 section 58 (5) (6) and (7)

7 **[1.67] Section 85D (2) (b)**

8 *omit*

9 sections 85C (5) and (7)

10 *substitute*

11 section 58 (5) and (7)

12 **[1.68] Sections 85E and 85F (1)**

13 *omit*

14 85D (1)

15 *substitute*

16 59 (1)

17 **[1.69] Sections 85E and 85F (1)**

18 *omit*

19 85C (1)

20 *substitute*

21 58 (1)

22 **[1.70] Section 85F (2) and (3)**

23 *omit*

Amendment [1.71]

- 1 section 85E
2 *substitute*
3 section 60
4 **[1.71] Sections 85A to 85H**
5 *relocate to Court Procedures Act 2004, part 7 as sections 56 to 63*
6 **[1.72] Sections 85I and 85IA**
7 *omit*
8 **[1.73] Part 12B heading**
9 *omit*
10 **[1.74] Section 85J heading**
11 *substitute*
12 **85J Definitions for pt 8**
13 **[1.75] Section 85J, definition of *property***
14 *omit*
15 **[1.76] Section 85J, definition of *request***
16 *omit*
17 85K (1)
18 *substitute*
19 65 (1)
20 **[1.77] Section 85L (1)**
21 *omit*
22 85K (1)

1 *substitute*

2 65 (1)

3 **[1.78] Section 85N**

4 *substitute*

5 **85N Rules for pt 8**

6 The rules may make provision in relation to—

7 (a) the circumstances in which an order may be made under
8 section 65 (1); and

9 (b) how any reference mentioned in section 66 (3) is to be made.

10 **[1.79] Sections 85J to 85N**

11 *relocate to Court Procedures Act 2004, part 8 as sections 64 to 68*

12 **Part 1.14 Evidence Regulation 1992**

13 **[1.80] Section 2**

14 *omit everything before paragraph (a) substitute*

15 **2 Judicial authority—Act, s 57, def *judicial authority***

16 For the Act, part 7 (Examination of witnesses outside the ACT but
17 in Australia)—

18 **[1.81] Section 2 (as amended)**

19 *relocate to Court Procedures Regulation 2004 as section 5*

1 **Part 1.15** **Fair Trading Act 1992**

2 **[1.82] New sections 2 and 3**

3 *insert*

4 **2 Dictionary**

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

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

9 For example, the signpost definition ‘*consumer*—see section 6.’ means
10 that the term ‘consumer’ is defined in that section.

11 *Note 2* A definition in the dictionary (including a signpost definition) applies to
12 the entire Act unless the definition, or another provision of the Act,
13 provides otherwise or the contrary intention otherwise appears (see
14 Legislation Act, s 155 and s 156 (1)).

15 **3 Notes**

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

17 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
18 notes.

19 **[1.83] Section 5 (1), definitions of *court*, *document* and *interest***

20 *omit*

21 **[1.84] Section 5 (1), definition of *send***

22 *substitute*

23 *send* includes deliver.

24 **[1.85] Section 5 (1), definition of *supply***

25 *omit everything after paragraph (a), substitute*

1 (b) in relation to services—provide, grant, give or donate for
2 promotional purposes.

3 **[1.86] Section 5 (1), definitions (as amended)**

4 *relocate to dictionary*

5 **[1.87] Section 5 (1), remainder**

6 *omit*

7 **[1.88] Section 5 (2)**

8 *omit*

9 (2) In this Act—

10 *substitute*

11 **5 Meaning of certain terms**

12 In this Act—

13 **[1.89] Section 32, definition of code**

14 *substitute*

15 *approved code* means a code of practice approved under section 34.

16 **[1.90] Section 32A**

17 *omit*

18 **[1.91] Sections 34 and 35**

19 *substitute*

20 **34 Approval of codes of practice**

21 (1) The Minister may approve a code of practice submitted to the
22 Minister under section 33.

23 *Note* Under the Legislation Act, s 46 a power to make an instrument includes
24 the power to amend or repeal the instrument. The power to amend or

Amendment [1.92]

- 1 repeal the instrument is exercisable in the same way, and subject to the
2 same conditions, as the power to make the instrument (see s 46 (2)).
- 3 (2) A code of practice submitted to the Minister under section 33 may
4 be approved with or without amendments.
- 5 (3) An approved code of practice is a disallowable instrument.
- 6 *Note* A disallowable instrument must be notified, and presented to the
7 Legislative Assembly, under the Legislation Act.
- 8 (4) The Minister may approve an amendment of an approved code of
9 practice if the commissioner has certified in writing that the
10 amendment is of a minor or inconsequential nature and that
11 compliance with section 33 is not required.
- 12 (5) Subsection (4) has effect despite the Legislation Act, section 46 (2).
- 13 (6) On the commencement of this section, each code of practice
14 prescribed under this section immediately before the
15 commencement, as in force at that time, is taken to be an approved
16 code of practice for this part.
- 17 (7) Subsection (6) and this subsection are laws to which the Legislation
18 Act, section 88 (Repeal does not end effect of transitional laws etc)
19 applies.
- 20 (8) Subsections (6), (7) and this subsection expire 1 year after the day
21 this section commences.

22 **[1.92] Section 35A heading**

23 *omit*

24 **code**

25 *substitute*

26 **approved code**

1	[1.93] Section 35A
2	<i>omit</i>
3	a code
4	<i>substitute</i>
5	an approved code
6	[1.94] Section 35A (as amended)
7	<i>renumber as section 35</i>
8	[1.95] Section 36 heading
9	<i>substitute</i>
10	36 Undertakings following contravention of approved code
11	[1.96] Section 36 (1)
12	<i>omit</i>
13	a prescribed code
14	<i>substitute</i>
15	an approved code
16	[1.97] Section 36 (1) (b)
17	<i>substitute</i>
18	(b) future compliance with the code;
19	[1.98] Section 36 (2)
20	<i>omit</i>
21	relevant code
22	<i>substitute</i>
23	approved code

Amendment [1.99]

1 **[1.99] Section 37 (2) (b)**

2 *omit*

3 a code

4 *substitute*

5 an approved code

6 **[1.100] New dictionary**

7 *insert*

8 **Dictionary**

9 (see s 2)

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

12 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 13 • ACT
14 • contravene
15 • document
16 • interest
17 • land
18 • liability
19 • Magistrates Court
20 • Minister
21 • month
22 • prescribed.

23 *approved code*, for part 3 (Codes of practice)—see section 32.

24 *conduct*—see section 5 (b).

25 *consumer*—see section 6.

26 *engaging* in conduct—see section 5 (a).

Amendment [1.102]

1 impose hardship on a person or that other circumstances justify
2 waiving payment of the amount.

3 **Part 1.17** **Magistrates Court (Civil**
4 **Jurisdiction) Rules 2004**

5 **[1.102] Section 393**

6 *omit*

7 **[1.103] Section 478 (1)**

8 *omit*

9 **[1.104] Section 478 (4)**

10 *omit*

11 subsection (3)

12 *substitute*

13 subsection (2)

14 **[1.105] Section 478 (2) to (4) (as amended)**

15 *renumber as section 478 (1) to (3)*

16 **[1.106] Section 478 (as amended)**

17 *relocate to Magistrates Court Rules 1932 as section 101*

18 **Part 1.18** **Magistrates Court Act 1930**

19 **[1.107] New section 286**

20 *in part 4.6, insert*

1 **286 Small Claims Court's seal**
2 The Small Claims Court must have a seal.

3 **[1.108] New section 308**

4 *in part 5.2, insert*

5 **308 Magistrates Court's seal**
6 The Magistrates Court must have a seal.

7 **Part 1.19 Notaries Public Act 1984**

8 **[1.109] Section 2 (1), definitions**

9 *relocate to dictionary*

10 **[1.110] Section 2, remainder**

11 *substitute*

12 **2 Dictionary**

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

14 *Note 1* The dictionary at the end of this Act defines certain terms used in this
15 Act.

16 *Note 2* A definition in the dictionary (including a signpost definition) applies to
17 the entire Act unless the definition, or another provision of the Act,
18 provides otherwise or the contrary intention otherwise appears (see
19 Legislation Act, s 155 and s 156 (1)).

20 **[1.111] Section 3**

21 *substitute*

Amendment [1.112]

1 **3 Notes**

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

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

5 **3A Terms used in Legal Practitioners Act**

6 A term used in the Legal Practitioners Act has the same meaning in
7 this Act.

8 **[1.112] Section 4 (1)**

9 *omit*

10 (1) A person

11 *substitute*

12 A person

13 **[1.113] Section 4 (2)**

14 *omit*

15 **[1.114] Section 5 (6)**

16 *omit*

17 **[1.115] Section 14 (1)**

18 *omit*

19 (1) Subject to subsection (3), a person

20 *substitute*

21 A person

22 **[1.116] Section 14 (2)**

23 *omit*

1 **[1.117] Section 16**

2 *omit*

3 **[1.118] New dictionary**

4 *insert*

5 **Dictionary**

6 (see s 2)

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

9 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:
10 • ACT
11 • Attorney-General
12 • business day
13 • Supreme Court.

14 **Part 1.20 Public Trustee Act 1985**

15 **[1.119] New section 29A**

16 *insert*

17 **29A Small estates**

18 (1) This section applies if—

19 (a) the public trustee holds on trust for the estate of a deceased
20 person an amount or property the net value of which is
21 estimated by the public trustee to be less than the amount
22 prescribed by regulation or, if no amount is prescribed,
23 \$15 000; and

Amendment [1.120]

- 1 (b) the public trustee has no knowledge of an application for
2 probate of the person's will or for letters of administration of
3 the person's estate; and
- 4 (c) the public trustee has given notice in a newspaper circulating in
5 the ACT, or in another way that the public trustee considers
6 appropriate, that the public trustee proposes to deal with the
7 person's estate under this section.
- 8 (2) The public trustee may—
- 9 (a) sell, call in and convert into money the property of the person's
10 estate; and
- 11 (b) pay the person's debts and liabilities that are known to the
12 public trustee; and
- 13 (c) deal with the residue as if probate of the will or letters of
14 administration of the estate had been granted to the public
15 trustee.

16 Part 1.21 Remuneration Tribunal Act 1995

17 [1.120] New section 2

18 *insert*

19 2 Dictionary

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

21 *Note 1* The dictionary at the end of this Act defines certain terms used in this
22 Act.

23 *Note 2* A definition in the dictionary (including a signpost definition) applies to
24 the entire Act unless the definition, or another provision of the Act,
25 provides otherwise or the contrary intention otherwise appears (see
26 Legislation Act, s 155 and s 156 (1)).

1 **[1.121] Section 3 (1), definitions**

2 *relocate to dictionary*

3 **[1.122] Section 3, remainder**

4 *substitute*

5 **3 Notes**

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

7 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
8 notes.

9 **[1.123] Schedule 1, part 1.2**

10 *insert*

- 11 • children and young people commissioner

12 **[1.124] New dictionary**

13 *insert*

14 **Dictionary**

15 (see s 2)

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

18 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 19 • Chief Justice
20 • Chief Minister
21 • Commonwealth
22 • Executive
23 • Territory
24 • writing.

- 1 (b) providing dispute resolution services for residential tenancy
2 disputes;
- 3 (c) facilitating assistance in the provision of residential
4 accommodation, whether or not the accommodation is
5 provided under this Act;
- 6 (d) researching issues of concern to lessors and tenants;
- 7 (e) reimbursing the costs incurred by the commissioner in
8 instituting, defending or taking over proceedings in relation to
9 tenancy disputes;
- 10 (f) reimbursing the Territory the cost of administering this Act.
- 11 (3) In this section:
- 12 **interest**—see the *Financial Management Act 1996*, dictionary.
- 13 **interest trust account** means the trust bank account maintained by
14 the chief executive of the administrative unit responsible for
15 administering this Act in accordance with the *Financial*
16 *Management Act 1996*, section 51.
- 17 (4) As soon as practicable after the commencement of this section, the
18 chief executive must determine the amount in the relevant
19 departmental bank account that, immediately before the
20 commencement, was available to be applied for purposes mentioned
21 in subsection (2) (a) to (e).
- 22 (5) The amount determined under subsection (4)—
- 23 (a) is taken to be trust money to which the *Financial Management*
24 *Act 1996*, part 7 (Trust money) applies; and
- 25 (b) must be transferred from the relevant departmental bank
26 account to the interest trust account.

Amendment [1.129]

- 1 (6) In subsections (4) and (5):
2 *relevant departmental bank account* means the departmental bank
3 account under the *Financial Management Act 1996* of the
4 administrative unit allocated responsibility for administering this
5 Act.
6 (7) Subsections (4) to (6) and this subsection expire 3 months after the
7 day this section commences.

8 **[1.129] Section 104 (f)**

9 *substitute*

- 10 (f) an order restoring a residential tenancy agreement or
11 occupancy agreement and granting the former tenant or
12 occupant possession of premises—
13 (i) from which the person was evicted in contravention of
14 this Act; or
15 (ii) that the person vacated in accordance with a termination
16 notice that was not in the form (if any) approved under
17 section 133 (Approved forms—Minister) for the notice;

18 **Part 1.23 Residential Tenancies Regulation**
19 **1998**

20 **[1.130] Section 4**

21 *omit*

22 **Part 1.24 Supreme Court Act 1933**

23 **[1.131] Section 10 (1)**

24 *omit*

1 (1) For

2 *substitute*

3 For

4 **[1.132] Section 10 (2) and (3)**

5 *omit*

6 **[1.133] Section 23 (1)**

7 *omit*

8 The court

9 *substitute*

10 The Supreme Court

11 **[1.134] Section 23 (2)**

12 *omit*

13 the rules), the court

14 *substitute*

15 the *Supreme Court Rules 1937*), the Supreme Court

16 **[1.135] New section 23 (4)**

17 *insert*

18 (4) In this section:

19 *matter*—see the *Supreme Court Act 1933*, dictionary.

20 **[1.136] Section 23 (as amended)**

21 *relocate to Court Procedures Act 2004, division 10.7 as section 134*

22 **[1.137] Section 64**

23 *substitute*

Amendment [1.138]

1 **64 Seals**

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

3 (2) The Supreme Court must have a seal.

4 **[1.138] Section 66**

5 *omit*

6 All writs and process issued from the court

7 *substitute*

8 (1) All process of the court issued from the Supreme Court

9 **[1.139] New section 66 (2)**

10 *insert*

11 (2) In this section:

12 *process of the court*—see the *Supreme Court Act 1933*, dictionary.

13 **[1.140] Section 66 (as amended)**

14 *relocate to Court Procedures Act 2004, division 10.7 as section 135*

15 **Part 1.25 Supreme Court Rules 1937**

16 **[1.141] Order 61 rule 5 (1) and (2)**

17 *omit*

18 the Act, section 10 (2)

19 *substitute*

20 the *Court Procedures Act 2004*, section 133 (1)

21 **[1.142] Order 66 rule 10B (2) note**

22 *omit*

Amendment [1.146]

- 1 (i) an entity mentioned in paragraph (a); and
2 (ii) a body corporate that is a company or recognised
3 company within the meaning of the Corporations Act,
4 section 9.

5 **[1.146] Section 2, definition of *registered office***

6 *substitute*

7 *registered office*—see the Corporations Act, section 9.

8 **[1.147] Section 2, definitions (as amended)**

9 *relocate to dictionary*

10 **[1.148] Section 2, remainder**

11 *substitute*

12 **2 Dictionary**

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

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

17 For example, the signpost definition ‘*approved deposit fund*, for part 4
18 (Unclaimed superannuation benefits)—see section 16.’ means that the
19 term ‘approved deposit fund’ is defined in that section for part 4.

20 *Note 2* A definition in the dictionary (including a signpost definition) applies to
21 the entire Act unless the definition, or another provision of the Act,
22 provides otherwise or the contrary intention otherwise appears (see
23 Legislation Act, s 155 and s 156 (1)).

24 **2A Notes**

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

26 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
27 notes.

1 **[1.149] Section 4 (2) and (3) (c)**

2 *omit*

3 moneys or dividends

4 *substitute*

5 amounts

6 **[1.150] Section 4 (4) (c)**

7 *omit*

8 moneys

9 *substitute*

10 amount

11 **[1.151] Section 5 (1)**

12 *omit*

13 money

14 *substitute*

15 amount

16 **[1.152] Section 5 (1)**

17 *omit*

18 sum due

19 *substitute*

20 amount owing

Amendment [1.153]

1 **[1.153] Section 5 (2)**

2 *omit*

3 any money

4 *substitute*

5 an amount

6 **[1.154] Section 5 (2)**

7 *omit*

8 shall pay an amount equal to that money to that person

9 *substitute*

10 must pay the amount to the person

11 **[1.155] Section 5A**

12 *omit*

13 **[1.156] Part 3 heading**

14 *substitute*

15 **Part 3 Unclaimed amounts payable by**
16 **companies**

17 **[1.157] Section 6 (1)**

18 *omit*

19 in relation to moneys

20 *substitute*

21 to an amount

1 **[1.158] Section 6 (2)**

2 *substitute*

3 (2) For this part, an amount to which this part applies is an *unclaimed*
4 *amount* if—

5 (a) not less than 6 years has elapsed since the day the amount
6 became payable; and

7 (b) during the 6-year period, the company did not receive a request
8 from a person entitled to the amount that the amount be paid to
9 the person or someone else.

10 **[1.159] Section 7 heading**

11 *substitute*

12 **7 Register of unclaimed amounts to be kept**

13 **[1.160] Section 7 (1)**

14 *substitute*

15 (1) If, in a year, any amounts payable by a company have become
16 unclaimed amounts, the company must, not later than 31 January in
17 the next year, enter particulars of the amounts in an alphabetical
18 register kept for the year by the company at its head or principal
19 office in the ACT.

20 *Note* If a form is approved under s 35 for the register, the form must be used.

21 **[1.161] Section 7 (3)**

22 *substitute*

23 (3) If a company pays an amount entered in a register kept by the
24 company under this section to the person entitled to the amount, the
25 company may delete from the register the entry relating to the
26 amount.

Amendment [1.162]

- 1 **[1.162] Section 8**
- 2 *substitute*
- 3 **8 Notice of particulars of register to be given to public**
- 4 **trustee**
- 5 (1) This section applies if, under section 7 (1), particulars of unclaimed
- 6 amounts have been entered in a register kept by a company for a
- 7 year.
- 8 (2) The company must prepare a written notice setting out the
- 9 particulars entered in the register for the year.
- 10 (3) Not later than 31 March in the next year, the company must—
- 11 (a) give the notice, verified by a statutory declaration made by an
- 12 officer of the company, to the public trustee; and
- 13 (b) publish a notice in a newspaper circulating in the ACT—
- 14 (i) stating that it holds unclaimed amounts for the previous
- 15 year; and
- 16 (ii) explaining how people can find out details of the amounts
- 17 and claim them.
- 18 *Note* If a form is approved under s 35 for a provision of this subsection, the
- 19 form must be used.

- 20 **[1.163] Section 9 (2)**
- 21 *omit*
- 22 moneys
- 23 *substitute*
- 24 amount

1 **[1.164] Section 9 (2)**

2 *omit*

3 those moneys

4 *substitute*

5 the amount

6 **[1.165] Section 10**

7 *substitute*

8 **10 Payment of unclaimed amounts to Territory**

9 (1) This section applies if—

10 (a) particulars of an unclaimed amount have been entered in a
11 register kept by a company under section 7 (Register of
12 unclaimed amounts to be kept); and

13 (b) the amount has not been paid by the company to the person
14 entitled to it within 1 year after the day the company gave the
15 notice to the public trustee under section 8 (3) (a) that included
16 particulars of the amount.

17 (2) The company must pay the amount to the Territory not later than
18 1 month after the end of the 1-year period.

19 (3) On payment of the amount to the Territory, the company is relieved
20 from all further liability for the amount.

21 **[1.166] Section 11 heading**

22 *substitute*

23 **11 Failure to pay unclaimed amounts**

Amendment [1.167]

- 1 **[1.167] Section 11 (1)**
- 2 *omit*
- 3 moneys
- 4 *substitute*
- 5 amount
- 6 **[1.168] Section 11 (2)**
- 7 *omit*
- 8 the moneys
- 9 *substitute*
- 10 the amount
- 11 **[1.169] Section 11 (2)**
- 12 *omit*
- 13 those moneys
- 14 *substitute*
- 15 the amount
- 16 **[1.170] Section 12**
- 17 *omit*
- 18 **[1.171] Section 13 heading**
- 19 *substitute*
- 20 **13 Payment of unclaimed amounts to claimants**

1 **[1.172] Section 13 (1)**

2 *omit*
3 any moneys
4 *substitute*
5 an amount

6 **[1.173] Section 13 (2)**

7 *omit*
8 to moneys
9 *substitute*
10 to an amount

11 **[1.174] Section 13 (2)**

12 *omit*
13 those moneys
14 *substitute*
15 the amount

16 **[1.175] Section 13 (3)**

17 *substitute*
18 (3) The Territory must pay a person an amount that was paid to the
19 Territory under section 10 if—
20 (a) the Minister is satisfied that the person is entitled to the
21 amount; or
22 (b) the Supreme Court has declared under subsection (2) that the
23 person is entitled to the amount.

Amendment [1.176]

1 **[1.176] Section 14**

2 *omit*

3 **[1.177] Section 15**

4 *substitute*

5 **15 Pt 3 does not apply to certain unclaimed amounts**

6 This part does not apply to an amount that is required by a law in
7 force in the ACT to be dealt with in a way different from the way
8 provided by this part.

9 **[1.178] Section 16, definition of *approved deposit fund***

10 *substitute*

11 *approved deposit fund*—see the Commonwealth Act, section 10 (1).

12 **[1.179] Section 16, definitions of *regulated superannuation fund*
13 *and unclaimed money***

14 *substitute*

15 *regulated superannuation fund*—see the Commonwealth Act,
16 section 19.

17 *unclaimed amount* means an amount that is an unclaimed amount
18 under section 18 (1) or (2).

19 **[1.180] Section 17 (2)**

20 *substitute*

21 (2) In this section:

22 *corporation*—see the Corporations Act, section 57A.

23 *exempt public sector superannuation scheme*—see the
24 Commonwealth Act, section 10 (1).

1	[1.181]	Section 18 heading
2		<i>substitute</i>
3	18	Unclaimed amounts for pt 4
4	[1.182]	Section 18 (1)
5		<i>omit everything after paragraph (d), substitute</i>
6		any amount payable to the member is an unclaimed amount.
7	[1.183]	Section 18 (2)
8		<i>omit everything after paragraph (d), substitute</i>
9		any amount payable to the beneficiary is an unclaimed amount.
10	[1.184]	Section 20 heading
11		<i>substitute</i>
12	20	Statement of unclaimed amounts
13	[1.185]	Section 20 (1)
14		<i>omit</i>
15		money
16		<i>substitute</i>
17		amounts
18	[1.186]	Section 21 heading
19		<i>substitute</i>
20	21	Payment of unclaimed amounts to Minister

Amendment [1.187]

1	[1.187] Section 23
2	<i>omit</i>
3	money
4	<i>substitute</i>
5	amount
6	[1.188] Section 24 heading
7	<i>substitute</i>
8	24 Repayment of excess amounts
9	[1.189] Section 25 heading
10	<i>substitute</i>
11	25 Register of amounts received by Minister
12	[1.190] Section 25
13	<i>omit</i>
14	money
15	<i>substitute</i>
16	amount
17	[1.191] Section 26, definitions of <i>holder</i>, <i>RSA</i> and <i>RSA provider</i>
18	<i>substitute</i>
19	<i>holder</i> —see the Commonwealth Act, section 9.
20	<i>RSA</i> —see the Commonwealth Act, section 8.
21	<i>RSA provider</i> —see the Commonwealth Act, section 12.

1 **[1.192] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

7 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 8 • ACT
- 9 • Commonwealth
- 10 • Corporations Act
- 11 • individual
- 12 • Minister
- 13 • property
- 14 • public trustee
- 15 • Territory.

16 *approved deposit fund*, for part 4 (Unclaimed superannuation
17 benefits)—see the Commonwealth Act, section 10 (1).

18 *Commonwealth Act*—

19 (a) for part 4 (Unclaimed superannuation benefits)—see
20 section 16; and

21 (b) for part 5 (Unclaimed RSA money)—see section 26.

22 *eligibility age*, for part 4 (Unclaimed superannuation benefits)—see
23 the Commonwealth Act.

24 *fund*, for part 4 (Unclaimed superannuation benefits)—see
25 section 16.

26 *holder*, for part 5 (Unclaimed RSA money)—see the
27 Commonwealth Act, section 9.

Amendment [1.192]

- 1 *regulated superannuation fund*, for part 4 (Unclaimed
2 superannuation benefits)—see the Commonwealth Act, section 19.
3 *RSA*, for part 5 (Unclaimed RSA money)—see the Commonwealth
4 Act, section 8.
5 *RSA provider*, for part 5 (Unclaimed RSA money)—see the
6 Commonwealth Act, section 12.
7 *unclaimed amount*—
8 (a) for part 3 (Unclaimed amounts payable by companies)—see
9 section 6 (2); and
10 (b) for part 4 (Unclaimed superannuation benefits)—see
11 section 16.
12 *unclaimed RSA money*, for part 5 (Unclaimed RSA money)—see
13 section 26.

Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 2005.
- 2 **Notification**
Notified under the Legislation Act on 2005.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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