

1995

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (CIVIL JURISDICTION) (AMENDMENT) BILL
1995

EXPLANATORY MEMORANDUM

Circulated by authority of

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Attorney-General

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OUTLINE

The *Magistrates Court (Enforcement of Judgments) Act 1994* amended the *Magistrates Court (Civil Jurisdiction) Act 1982* to provide for new procedures for the enforcement of judgment debts. One element of enforcement is the issue of a warrant of apprehension where a debtor fails to appear in accordance with an examination summons issued by the Court. There is a *lacuna* in the amendments in that a bailiff of the Magistrates Court does not have the specific power to enter and search premises where the bailiff suspects such a person to be. This defect will be corrected by this Bill which will also make a technical amendment in relation to the service of documents.

FINANCIAL CONSIDERATIONS

None.

DETAILS OF INDIVIDUAL CLAUSES

Clauses 1, 2 and 3 are formal provisions relating to the short title of the Bill; its commencement and defining the term "Principal Act" to mean the *Magistrates Court (Civil Jurisdiction) Act 1995*. This amendments will commence on the notification of the making of the amending Bill in the Gazette

Clause 4 will amend section 28 of the Principal Act. The section requires a party to proceedings to have an address for the service of documents within the "City Area". The *City Area Leases Act 1936*, which defined the City Area, was repealed by the *Land (Planning and Environment)(Consequential Provisions) Act 1991*. The proposed amendment will require parties to have an address for service within the Territory.

Clause 5 will amend the Principal Act to insert a new subsection 303(2) which will give a bailiff of the Magistrates Court a specific power to enter and search premises for the purpose of apprehending the person and bringing him or her before the Registrar of the Magistrates Court where he or she has failed to appear for an oral examination as to his or her financial affairs. A bailiff will only be permitted to use such force as is necessary and reasonable.