



Australian Capital Territory

Magistrates Court (Civil Jurisdiction) Regulations 1987 No 16

made under the

Magistrates Court (Civil Jurisdiction) Act 1982

Republication No 5

Republication date: 30 August 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Magistrates Court (Civil Jurisdiction) Regulations 1987*, made under the *Magistrates Court (Civil Jurisdiction) Act 1982* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 30 August 2002. It also includes any amendment, repeal or expiry affecting the republished law to 12 September 2001.

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

Kinds of republications

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

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

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

Editorial changes

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

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

Uncommenced provisions and amendments

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

Modifications

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

Penalties

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

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

Amendments incorporated to
12 September 2001



Australian Capital Territory

Magistrates Court (Civil Jurisdiction) Regulations 1987

made under the

Magistrates Court (Civil Jurisdiction) Act 1982

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Magistrates Court (Civil Jurisdiction) Regulations 1987

made under the

Magistrates Court (Civil Jurisdiction) Act 1982

1 Name of regulations

These regulations are the *Magistrates Court (Civil Jurisdiction) Regulations 1987*.

3 Prescribed interest rates

For the Act, section 231 (2)—

- (a) if proceedings are begun before 15 July 1992—
 - (i) the rate % per annum in relation to a period specified in schedule 1, table 1.1, column 2 is the rate specified in column 3 of the same item; or
 - (ii) the rate % per annum in relation to a period specified only in schedule 1, table 1.2, column 2 is the rate specified in column 3 of the same item; or
- (b) if proceedings are begun on or after 15 July 1992—the rate % per annum in relation to a period specified in schedule 1, table 1.2, column 2 is the rate specified in column 3 of the same item.

4 Amount garnishee may keep

For the Act, section 339 (1), the prescribed amount is \$19.

5 Value of tools of trade etc

For the Act, section 347 (1) (b), the prescribed amount is \$1 000.

6 Keeping of records

- (1) A bailiff shall keep, in a form approved under the Act, section 471 (Approved forms) or as directed by the registrar, records in relation to process required to be served or executed by the bailiff.
- (2) Without limiting subregulation (1), the bailiff shall keep a record of—

- (a) the particulars of every writ that the bailiff has been required to execute; and
- (b) what the bailiff has done under each of those writs; and
- (c) if property has not been seized under a writ within 1 month after delivery of the writ to the bailiff—the reasons why it has not been seized.

7 Service and execution of process

- (1) A bailiff shall serve or execute process as soon as practicable.
- (2) If a bailiff required to serve or execute any process ascertains that the person to be served is not, or the goods of the judgment debtor are not, at the address shown in the process but at another address within the ACT, the bailiff shall serve or execute the process at that other address.

8 Notice of service of process

- (1) The bailiff shall, within 2 days after service of any process, give an affidavit of service to the person (other than the registrar) who required the service.
- (2) If process delivered to the bailiff for service cannot be expeditiously served, the bailiff shall—
 - (a) as soon as practicable after the bailiff becomes aware that there is no likelihood of the bailiff effecting service; or
 - (b) as soon as practicable after the last day when the process may be served; or
 - (c) at the end of 1 month after the last attempt made to serve the process;

whichever occurs first, give the process to the person (other than the registrar) who required the service, together with a notice specifying why the process had not been served.

9 Receipt for money

A bailiff raising or receiving any money under a writ of execution shall, if practicable, give a receipt for that money to the judgment debtor or person from whom he or she received it.

10 Return on writ

The bailiff who is required by the registrar to execute a writ shall—

- (a) on completion of the execution; or
- (b) on the expiry of the writ; or
- (c) when required in writing by the judgment creditor to do so;

complete a return in accordance with form 92 in relation to the writ and forward the writ (if it is still in the bailiff's possession) and the return to the registrar.

11 Notices

- (1) If the bailiff executing a writ of execution—
 - (a) delivers property seized under the writ to the judgment debtor's trustee in bankruptcy in accordance with the *Bankruptcy Act 1966* (Cwlth), section 119A; or
 - (b) is unable to seize any property of the judgment debtor;the bailiff shall, as soon as practicable, give to the judgment creditor or the judgment creditor's lawyer notice of the bankruptcy or the reasons for being unable to seize any property.
- (2) A bailiff shall, at all reasonable times, give to the judgment creditor or the judgment creditor's lawyer any information reasonably required about the execution or non-execution of a writ.

12 Bailiff not to act as agent

A bailiff or an officer under the control of a bailiff shall not act as agent for a party in proceedings before the court.

Schedule 1

(see reg 3)

Table 1.1

column 1 item	column 2 period	column 3 rate of interest % per annum
1	any period before 1 July 1981	13.375
2	1 July 1981 to and including 30 June 1982	15.00
3	1 July 1982 to and including 31 December 1982	17.50
4	1 January 1983 to and including 31 December 1983	15.50
5	1 January 1984 to and including 30 June 1984	12.375
6	1 July 1984 to and including 31 December 1984	14.75
7	1 January 1985 to and including 30 June 1985	13.75
8	1 July 1985 to and including 31 December 1985	17.25
9	1 January 1986 to and including 30 June 1986	20.625
10	1 July 1986 to and including 31 December 1986	18.125
11	1 January 1987 to and including 30 June 1987	19.25
12	1 July 1987 to and including 29 February 1988	18.75

Schedule 1

column 1 item	column 2 period	column 3 rate of interest % per annum
13	1 March 1988 to and including 28 February 1989	16.125
14	1 March 1989 to and including 31 August 1989	17.875
15	1 September 1989 to and including 14 January 1991	20.75

Table 1.2

column 1 item	column 2 period	column 3 rate of interest % per annum
1	any period before 1 July 1981	13.50
2	1 July 1981 to and including 31 December 1982	16.25
3	1 January 1983 to and including 30 June 1985	14.00
4	1 July 1985 to and including 29 February 1988	19.00
5	1 March 1988 to and including 31 August 1989	17.00
6	1 September 1989 to and including 14 January 1991	20.75
7	15 January 1991 to and including 14 July 1991	17.50
8	15 July 1991 to and including 14 January 1992	15.75

Schedule 1

column 1 item	column 2 period	column 3 rate of interest % per annum
9	15 January 1992 to and including 14 July 1992	13.75
10	15 July 1992 to and including 14 January 1993	11.50
11	15 January 1993 to and including 31 January 1994	10.00
12	1 February 1994 to and including 31 July 1995	9.00
13	1 August 1995 to and including 31 March 1997	10.75
14	1 April 1997 to and including 30 April 1998	9.55
15	any period after 30 April 1998	8.45

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

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

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

The endnotes also include a table of earlier republications.

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

2 Abbreviation key

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

3 Legislation history

These regulations were originally called the *Magistrates Court (Civil Jurisdiction) Regulations* and were originally made under a Commonwealth ordinance—the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982* No 54 (Cwlth).

The *Magistrates Court Ordinance 1985* No 67 (Cwlth) renamed the ordinance as the *Magistrates Court (Civil Jurisdiction) Ordinance 1982*.

The *ACT Self-Government (Consequential Provisions) Act 1988* No 109 (Cwlth), s 12) converted most former Commonwealth ordinances in force in the ACT, and the regulations made under them, into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. The *Magistrates Court (Civil Jurisdiction) Ordinance 1982* and the *Magistrates Court (Civil Jurisdiction) Regulations* were converted into ACT enactments on 1 July 1990.

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

These regulations were renamed as the *Magistrates Court (Civil Jurisdiction) Regulations 1987* under the *Legislation Act 2001*.

Before 12 September 2001, regulations commenced on their notification day unless otherwise stated (see *Interpretation Act 1967* s 50, *Subordinate Laws Act 1989* s 6).

Legislation before becoming Territory enactment

Magistrates Court (Civil Jurisdiction) Regulations 1987 No 16

notified 4 November 1987

commenced 4 November 1987

as amended by

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1988 No 2

notified 25 February 1988

commenced 25 February 1988

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1989 No 3

notified 22 February 1989

commenced 22 February 1989

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1989 No 19

notified 23 August 1989

Endnotes

3 Legislation history

commenced 23 August 1989

Legislation after becoming Territory enactment

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1991 No 1

notified 11 January 1991
commenced 11 January 1991

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1991 No 17

notified 12 July 1991
commenced 12 July 1991

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1991 No 35

notified 8 January 1992
commenced 8 January 1992

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1992 No 11

notified 14 July 1992
commenced 15 July 1992 (reg 1)

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1993 No 2

notified 15 January 1993
commenced 15 January 1993 (reg 1)

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1994 No 1

notified 1 February 1994
commenced 1 February 1994 (reg 1)

Magistrates Court (Enforcement of Judgments) Act 1994 No 61 pt 4

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
pt 4 commenced 10 April 1995 (s 2 (2) and Gaz 1995 No S75)

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1995 No 28

notified 31 July 1995
commenced 1 August 1995 (reg 1)

Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 2

notified 1 December 1997 (Gaz 1997 No S380)
 s 1, s 2 commenced 1 December 1997 (s 2 (1))
 sch 2 commenced 1 June 1998 (s 2 (2))

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1997 No 6

notified 27 March 1997
 commenced 27 March 1997 (reg 1)

Magistrates Court (Civil Jurisdiction) Regulations (Amendment) 1998 No 10

notified 21 April 1998
 commenced 21 April 1998 (reg 1)

Legislation (Consequential Amendments) Act 2001 No 44 pt 240

notified 26 July 2001 (Gaz 2001 No 30)
 s 1, s 2 commenced 26 July 2001 (IA s 10B)
 pt 240 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

4 Amendment history**Name of regulations**

reg 1 hdg am R5 LA
 reg 1 am R5 LA

Interpretation

reg 2 om Act 2001 No 44 amdt 1.2795

Prescribed interest rates

reg 3 am 1988 No 2; 1989 No 3; 1989 No 19; 1991 No 1; 1991
 No 17; 1991 No 35
 sub 1992 No 11 reg 2
 am 1995 No 28 reg 3

Amount garnishee may keep

reg 4 ins Act 1994 No 61 s 55
 am 1995 No 28 reg 4

Value of tools of trade etc

reg 5 ins Act 1994 No 61 s 55
 am 1995 No 28 reg 5

Keeping of records

reg 6 ins Act 1994 No 61 s 55
 am Act 2001 No 44 amdt 1.2796

Endnotes

5 Earlier republications

Service and execution of process

reg 7 ins Act 1994 No 61 s 55

Notice of service of process

reg 8 ins Act 1994 No 61 s 55

Receipt for money

reg 9 ins Act 1994 No 61 s 55

Return on writ

reg 10 ins Act 1994 No 61 s 55

Notices

reg 11 ins Act 1994 No 61 s 55
am Act 1997 No 96 sch 2

Bailiff not to act as agent

reg 12 ins Act 1994 No 61 s 55

Schedule 1

sch 1 hdg (prev sch hdg) renum R5 LA
sch 1 (prev sch) ins 1992 No 11
am 1993 No 2 reg 2; 1994 No 1 reg 2; 1995 No 28 reg 6; 1997
No 6 reg 2; 1998 No 10 reg 2
renum R5 LA

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. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	SL 1994 No 1	1 February 1994
2	Act 1994 No 61	10 April 1995
3	SL 1995 No 28	30 November 1996
4	SL 1998 No 10	31 July 1999

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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