



Australian Capital Territory

Magistrates Court (Civil Jurisdiction) Regulation 1987

SL1987-16

made under the

Magistrates Court (Civil Jurisdiction) Act 1982

Republication No 6

Effective: 10 November 2004 – 9 January 2005

Republication date: 10 November 2004

Last amendment made by A2004-60
(republication includes editorial amendments
under Legislation Act)

Not all amendments are in force: see last endnote

Uncommenced repeal: see endnote 3

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Magistrates Court (Civil Jurisdiction) Regulation 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 10 November 2004. It also includes any amendment, repeal or expiry affecting the republished law to 10 November 2004.

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.



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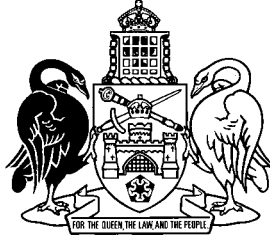
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R6
10/11/04

Magistrates Court (Civil Jurisdiction) Regulation 1987
Effective: 10/11/04-09/01/05

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Australian Capital Territory

Magistrates Court (Civil Jurisdiction) Regulation 1987

made under the

Magistrates Court (Civil Jurisdiction) Act 1982

1 Name of regulation

This regulation is the *Magistrates Court (Civil Jurisdiction) Regulation 1987*.

U 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.

U 6 Keeping of records

- (1) A bailiff must 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 subsection (1), the bailiff must 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.

U 7 Service and execution of process

- (1) A bailiff must 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 must serve or execute the process at that other address.

U 8 Notice of service of process

- (1) The bailiff must, 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 must—
 - (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 happens 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.

U 9 Receipt for money

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

U 10 Return on writ

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

- (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 give the writ (if it is still in the bailiff's possession) and the return to the registrar.

U 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 must, 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 must, 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.

U 12 Bailiff not to act as agent

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

U Schedule 1

(see s 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.

2 Abbreviation key

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

3 Legislation history

This regulation was originally called the *Magistrates Court (Civil Jurisdiction) Regulations* and was 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.

This regulation was renamed 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) Regulation 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

Endnotes

3 Legislation history

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

notified 23 August 1989
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 (s 1)

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

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

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

notified 1 February 1994
commenced 1 February 1994 (s 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 (s 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 (s 1)

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

notified 21 April 1998
commenced 21 April 1998 (s 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)

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.52

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
[sch 1 pt 1.52 awaiting commencement \(s 2 and see Court Procedures Act 2004 A2004-59, s 2\)](#)

Note default commencement under s 2: 2 March 2005

Endnotes

4 Amendment history

as repealed by

Court Procedures (Consequential Amendments) Act 2004 A2004-60
s 4

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

s 4 awaiting commencement (s 2 and see Court Procedures Act 2004 A2004-59, s 2)

Note default commencement under s 2: 2 March 2005

4 Amendment history

Name of regulation

s 1 am R5 LA; R6 LA

Interpretation

s 2 om Act 2001 No 44 amdt 1.2795

Prescribed interest rates

s 3 am 1988 No 2; 1989 No 3; 1989 No 19; 1991 No 1; 1991 No 17; 1991 No 35
sub 1992 No 11 s 2
am 1995 No 28 s 3; A2004-60 amdt 1.580, amdt 1.581
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 231 (3) by A2004-60 amdt 1.582

Amount garnishee may keep

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

Value of tools of trade etc

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

Keeping of records

s 6 ins Act 1994 No 61 s 55
am Act 2001 No 44 amdt 1.2796; A2004-60 amdt 1.583,
amdt 1.584
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380B by A2004-60 amdt 1.585

Service and execution of process

s 7 ins Act 1994 No 61 s 55
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380C by A2004-60 amdt 1.585

Notice of service of process

s 8 ins Act 1994 No 61 s 55
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380D by A2004-60 amdt 1.585

Receipt for money

s 9 ins Act 1994 No 61 s 55
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380E by A2004-60 amdt 1.585

Return on writ

s 10 ins Act 1994 No 61 s 55
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380F by A2004-60 amdt 1.585

Notices

s 11 ins Act 1994 No 61 s 55
am Act 1997 No 96 sch 2
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380G by A2004-60 amdt 1.585

Bailiff not to act as agent

s 12 ins Act 1994 No 61 s 55
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
s 380H by A2004-60 amdt 1.585

Schedule 1

sch 1 hdg (prev sch hdg) renum R5 LA
sch 1 (prev sch) ins 1992 No 11
am 1993 No 2 s 2; 1994 No 1 s 2; 1995 No 28 s 6; 1997 No 6
s 2; 1998 No 10 s 2
renum R5 LA
am A2004-60 amdt 1.586, amdt 1.587
reloc to Magistrates Court (Civil Jurisdiction) Rules 2004 as
sch 1 by A2004-60 amdt 1.588

Endnotes

4 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. 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
5	A2001-44	30 August 2002

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.52
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Part 1.52 Magistrates Court (Civil Jurisdiction) Regulation 1987

[1.580] Section 3

omit everything before paragraph (a), substitute

(3) For subsection (2)—

[1.581] Section 3

omit

annum

substitute

year

[1.582] Section 3 (as amended)

relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as section 231 (3)

[1.583] Section 6 (1)

substitute

- (1) A bailiff must keep, in the appropriate approved form or as directed by the registrar, records in relation to process required to be served or executed by the bailiff.

[1.584] Section 6 (2)

omit

subregulation

substitute

subsection

[1.585] Sections 6 to 12 (as amended)

relocate to Magistrates Court (Civil Jurisdiction) Rules 2004 as sections 380B to 380H

[1.586] Schedule 1

omit

(see s 3)

substitute

(see s 231)

Endnotes

4 Uncommenced amendments

[1.587] Schedule 1

omit

per annum

substitute

per year

[1.588] Schedule 1 (as amended)

*relocate to Magistrates Court (Civil Jurisdiction) Rules 2004
as schedule 1*

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