



# **Service and Execution of Process (Transitional Provisions and Consequential Amendments) Act 1992**

**No. 166 of 1992**

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**An Act to repeal the *Service and Execution of Process Act 1901*, and to make transitional provisions and certain amendments consequential upon the enactment of the *Service and Execution of Process Act 1992***

*[Assented to 11 December 1992]*

The Parliament of Australia enacts:

## **Short title**

1. This Act may be cited as the *Service and Execution of Process (Transitional Provisions and Consequential Amendments) Act 1992*.

## **Commencement**

2. This Act commences on the day fixed by Proclamation under subsection 2(4) of the *Service and Execution of Process Act 1992*.

## **Repeal**

3. The *Service and Execution of Process Act 1901* is repealed.

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**Transitional provisions**

**4.(1)** If a process was served under Part II of the *Service and Execution of Process Act 1901* before this Act commenced, that Part and any rules or regulations relating to the operation of that Part continue to apply with respect to the process, and any action taken in connection with the process, as if the *Service and Execution of Process Act 1901* had not been repealed.

**(2)** If, before this Act commenced:

(a) a warrant was endorsed under section 18 of the *Service and Execution of Process Act 1901*; or

(b) a provisional warrant was issued under section 19A of that Act;  
or

(c) leave was given under section 19C of that Act;

Part III of that Act and any rules or regulations relating to the operation of that Part continue to apply with respect to the warrant, provisional warrant or leave, and any action taken in connection with the warrant, provisional warrant or leave, as if that Act had not been repealed.

**(3)** If, before this Act commenced:

(a) leave was given under section 19M of the *Service and Execution of Process Act 1901* in relation to a subpoena; or

(b) an order was made under section 19T of that Act; or

(c) a warrant to which Division 4 of Part 3A of that Act applies was issued;

Part IIIA of that Act and any rules or regulations relating to the operation of that Part continue to apply with respect to the subpoena, order or warrant, and any action taken in connection with the subpoena, order or warrant, as if that Act had not been repealed.

**(4)** If a certificate of judgment was registered under section 21 of the *Service and Execution of Process Act 1901* before this Act commenced, Part IV of that Act and any rules or regulations relating to the operation of that Part continue to apply with respect to the judgment, and any action taken in connection with the judgment, as if that Act had not been repealed.

**(5)** If a warrant was issued under section 26D of the *Service and Execution of Process Act 1901* before this Act commenced, Part IVA of that Act and any rules or regulations relating to the operation of that Part continue to apply with respect to the warrant, and any action taken in connection with the warrant, as if that Act had not been repealed.

**(6)** In this section:

**“regulations”** means the regulations made under section 28 of the *Service and Execution of Process Act 1901* that were in force immediately before this Act commenced;

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“rules” means the rules of court made under section 27 of the *Service and Execution of Process Act 1901* that were in force immediately before this Act commenced.

**Consequential amendments of other Acts**

5. The Acts specified in the Schedule are amended as set out in the Schedule.

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**SCHEDULE**

Section 5

**CONSEQUENTIAL AMENDMENTS OF OTHER ACTS**

***Admiralty Act 1988***

**Section 23:**

Omit “*Service and Execution of Process Act 1901*”, substitute “*Service and Execution of Process Act 1992*”.

***Foreign Judgments Act 1991***

**Subsection 6(8):**

Omit “Part IV of the *Service and Execution of Process Act 1901*”, substitute “Part 6 of the *Service and Execution of Process Act 1992*”.

**Subsection 7(1):**

Omit “Part IV of the *Service and Execution of Process Act 1901*”, substitute “Part 6 of the *Service and Execution of Process Act 1992*”.

***Proceeds of Crime Act 1987***

**Paragraph 90(1)(d):**

Omit “*Service and Execution of Process Act 1901*”, substitute “*Service and Execution of Process Act 1992*”.

***Transfer of Prisoners Act 1983***

**Subparagraph 21(b)(iii):**

Omit “Part IVA of the *Service and Execution of Process Act 1901*”, substitute “Part 7 of the *Service and Execution of Process Act 1992*”.

**Paragraph 30(b):**

Omit “*Service and Execution of Process Act 1901*”, substitute “*Service and Execution of Process Act 1992*”.

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*[Minister's second reading speech made in—  
Senate on 10 September 1992  
House of Representatives on 9 November 1992].*