



COURT PROCEDURES ACT 2007

[Consolidated as at 20 December 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

**[NB – certain sections are omitted but their numbering remains
in order to maintain parity in section numbering with the *Court
Procedures Act 2004* of the Australian Capital Territory]**

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COURT PROCEDURES ACT 2007

An Act to provide for certain matters relating to the practice and procedure in courts and tribunals, and for other purposes.

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows—

PART 1 — PRELIMINARY

Name of Act

1. This Act is the *Court Procedures Act 2007*.

Commencement

2. (1) This Act commences on a day or days to be notified by the Administrator in the Gazette.

(2) If this Act has not commenced on the day that is 120 days following the date upon which assent is given by the Administrator it commences on the next following day.

Dictionary

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

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

For example, the signpost definition ‘*fee*, for Part 3 (Court and tribunal fees)—see section 12.’ means that the term ‘*fee*’ is defined in that section for Part 3.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears.

Notes

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

Objects of Act

5. (1) The objects of this Act include—
 - (a) recognising the importance of court procedures in our system of justice; and

- (b) facilitating cooperation between Norfolk Island courts in the common goals of—
 - (i) improved access to justice through the development of procedures that are, as far as practicable, the same for all Norfolk Island courts; and
 - (ii) better court procedures.

- (2) In this section:

court includes a tribunal that is a prescribed tribunal under section 6.

PART 2 — COURT RULES AND FORMS

Definition for Part 2 and Schedule 1

- 6. In this Part and Schedule 1:

prescribed tribunal means a tribunal prescribed by regulation for this Part.

Rule-making power

7. (1) The rule-making committee may make rules in relation to the following:

- (a) the practice and procedure of Norfolk Island courts, prescribed tribunals and their registries;
- (b) anything else mentioned in Schedule 1 (Subject matter for rules).

Note 1 The power to make rules for a court or tribunal includes power to make rules in relation to any matter necessary or convenient to be prescribed for carrying out or giving effect to the jurisdiction of the court or tribunal under any law of Norfolk Island or the Commonwealth that authorises or requires anything to be done in or in relation to the court or tribunal.

(2) A rule is taken to be made by the rule-making committee if it is signed by the Chief Justice and Chief Magistrate.

(3) This section does not limit any inherent or other power of a court, judge or magistrate to control proceedings.

Approved forms

- 8. (1) The rule-making committee may, in writing, approve forms—

- (a) for this Act; or
- (b) for use in or in relation to Norfolk Island courts, prescribed tribunals and their registries.

(2) If the rule-making committee approves a form for a particular purpose, the approved form must be used for that purpose.

Note Under the *Interpretation Act 1979* s. 20B when a form is prescribed, substantial compliance is sufficient unless the contrary intention appears.

(3) A form is taken to be approved by the rule-making committee if it is approved by the Chief Justice and the Chief Magistrate.

(4) An approved form is a disallowable instrument.

Note A disallowable instrument must be notified under the *Interpretation Act 1979* s.41A.

Rule-making committee

9. (1) A rule-making committee is established.

(2) The rule-making committee consists of the following members:

(a) the Chief Justice;

Note The Chief Justice may delegate this function to a judge (see s 10).

(b) another judge appointed by the Chief Justice; and

(c) the Chief Magistrate;

Note The Chief Magistrate may delegate this function to a magistrate (see s 10).

(3) The rule-making committee may conduct its proceedings in the way it decides, whether by holding meetings or in any other way.

(4) The Chief Justice is the chairperson of the rule-making committee.

(5) However, if the Chief Justice is not personally present at a meeting of the rule-making committee, a judge is to chair the meeting if personally present at the meeting.

(6) A *public servant* appointed by the Chief Executive Officer and approved by the Chief Justice shall act as secretary of the rule-making committee.

Delegation by Chief Justice and Chief Magistrate

10. (1) The Chief Justice may delegate a function under this Part to a judge.

(2) The Chief Magistrate may delegate a function under this Part to a magistrate.

(3) The Chief Justice or the Chief Magistrate may not delegate the function of being a member of the rule-making committee to a person who is already a member of the committee.

Note For the making of delegations and the exercise of delegated functions, see the *Interpretation Act 1979*, 23A, 23B and 24. In particular, the delegation may have effect only in stated circumstances, e.g. if the appointer is away from Norfolk Island.

Advisory committee

11. (1) An advisory committee is established.

(2) The advisory committee consists of the following members:

(a) a judge appointed by the Chief Justice;

(b) a magistrate appointed by the Chief Magistrate;

(c) the registrar of the Supreme Court;

- (d) and, if the registrar is not also the clerk, the clerk of the Court of Petty Sessions;
 - (e) a person appointed by the Minister to represent the interests of legal practitioners on Norfolk Island;
 - (f) the Crown Counsel;
 - (g) the legislative counsel;
 - (h) the secretary of the rule-making committee.
- (3) The functions of the advisory committee are to—
- (a) initiate, consider, develop, and advise the rule-making committee on, proposals for making rules and approving forms under this Act; and
 - (b) make recommendations to the rule-making committee about the making of rules and approving of forms under this Act.
- (4) The advisory committee must consider, and advise the rule-making committee on, proposals for making rules and approving forms under this Act that are referred to it by the rule-making committee.
- (5) The advisory committee may conduct its proceedings in the way it decides, whether by holding meetings or in any other way and may determine what constitutes a quorum for meetings.
- (6) The judge mentioned in subsection (2) (a) is the chairperson of the advisory committee.
- (7) However, if the judge is not present at a meeting of the advisory committee, a magistrate is to chair the meeting if present at the meeting.
- (8) Also, if the judge and a magistrate are not present at a meeting of the advisory committee, the member present chosen by the committee is to chair the meeting.

PART 3 — COURT AND TRIBUNAL FEES

Definitions for Part 3

12. In this Part:

determined fee means a fee determined under this Part.

fee includes a charge and a tax.

relevant legislation means any of the following:

- (a) the *Administrative Review Tribunal Act 1996*;
- (b) the *Coroners Act 1993*;
- (c) this Act;
- (d) the *Court of Petty Sessions Act 1960*;
- (e) the *Supreme Court Act 1960*;

- (f) any other legislation prescribed by regulation for this definition.

tribunal means the administrative review tribunal.

Determination of fees

13. (1) The Minister may, in writing, determine fees for any of the following purposes:

- (a) proceedings in a court or tribunal, and matters incidental to the proceedings, including—
 - (i) for the Supreme Court—the admission and enrolment of lawyers; and
 - (ii) the service and execution of the process of a court or tribunal; and
 - (iii) the taxation of costs by the registrar or other officers of a court or tribunal;
- (b) facilities and services provided by the court or tribunal, including the service and execution of the process of a court of the Commonwealth, a State, another Territory or a foreign country;
- (c) the general purposes of relevant legislation.

(2) A determination under subsection (1) may provide for any of the following matters:

- (a) exempting people from liability to pay determined fees, completely or partly, in all or particular circumstances;
 - (b) remitting, refunding or waiving, by a registrar of a court or tribunal, determined fees, completely or partly, in particular circumstances;
 - (c) deferring, by a registrar of a court or tribunal, liability to pay determined fees, completely or partly, in particular circumstances.
- (3)** A determination under subsection (1) is a disallowable instrument.

Payment of fees

14. (1) A determined fee is payable, in advance, in accordance with the determination that determined the fee, but subject to this section.

(2) A determined fee is payable on notice from the registrar of the court or tribunal if it is worked out by reference to expenses actually incurred in exercising the function, or in providing the facility or service, for which the fee is payable.

Remission, refund, deferral, waiver and exemption of fees

- 15. (1)** A determined fee may be remitted or refunded, or liability for its payment deferred, in accordance with the determination that determined the fee.
- (2)** A determined fee is not payable—
- (a) if the person otherwise liable to pay the fee or charge is—
 - (i) exempt from liability to pay the fee under the determination that determined the fee; or
 - (ii) exempt from paying the fee under the *Legal Aid Act 1995*, or
 - (b) if the registrar or clerk of the court or tribunal waives payment by a person of the fee completely or partly because the registrar considers that payment of the fee would impose hardship on the person—to the extent of the waiver; or
 - (c) for lodging a document, or for the service and execution of process, in relation to a proceeding in the Supreme Court—
 - (i) in a criminal matter, including an appeal; or
 - (ii) under the *Coroners Act 1993*; or
 - (iii) under the *Legal Profession Act 1993*, Part 4 (Discipline); or
 - (iv) under any of the following Acts:
 - (A) the *Adoption of Children Act 1932*;
 - (B) the *Mental Health Act 1996*;
 - (v) on appeals in relation to a matter under the *Mental Health Act 1996*;
 - (vi) on a matter that has been remitted to the court by the High Court under the *Judiciary Act 1903* (Cwlth), section 44; or
 - (vii) in relation to which a convention to which Australia is a party provides that a fee is not to be payable; or
 - (viii) on an application to the court for an extension of the time within which a proceeding may be begun; or
 - (d) for the laying of an information in the Court of Petty Sessions—
 - (i) by the Crown Counsel acting in the exercise of an official function under a Norfolk Island law; or
 - (ii) by a police officer acting in the exercise of an official function under a Norfolk Island law; or
 - (iii) for an offence against the *Court of Petty Sessions Act 1960*, section 246(1) (Penalty for insulting or interrupting Magistrate); or

- (e) if it is not payable under another provision of this Act or another law of Norfolk Island.

(3) If the Administrative Review Tribunal is satisfied that a proceeding ends in a way that is favourable to an applicant for a review by the tribunal of a decision, it may order another party to the proceeding to pay the amount of the application fee (if any) to the applicant.

- (4) This section is subject to section 16 and section 17.

Recovery of fees in civil proceedings if fees not otherwise payable

16. (1) This section applies in relation to a civil proceeding in the Supreme Court or the Court of Petty Sessions, or a proceeding in a tribunal, between at least 2 parties (the *first party* and the *second party*), if—

- (a) a filing fee, or a fee for the service and execution of process, otherwise payable by the first party is—
 - (i) not payable, completely or partly, because of the exemption of the first party under this Part; or
 - (ii) remitted, refunded or waived, completely or partly, under this Part; and
- (b) judgment is given or entered, or an order is made, in favour of the first party; and
- (c) the first party's costs are payable by the second party.

(2) If this section applies, the second party must pay to the registrar of the court or tribunal the amount of the fee exempted, remitted, refunded or waived.

Recovery of fees in criminal proceedings if fees not otherwise payable

17. (1) This section applies in relation to a criminal proceeding in the Court of Petty Sessions if—

- (a) the fee (the *information fee*) that would otherwise be payable by the informant for the laying of the information in the proceeding is not payable, completely or partly, under this part; and
- (b) the defendant is convicted of the offence alleged in the information and ordered to pay a fine.

(2) If this section applies, the defendant must pay to the registrar of the Court of Petty Sessions, in addition to the fine—

- (a) if payment of the fee is waived in part under this Part—the amount of the fee waived; or
- (b) in any other case—the information fee.

Review of decisions

18. (1) This section applies to any of the following decisions made under this Part by the registrar of a court or tribunal in relation to a person (the *eligible person*):

- (a) a decision refusing to remit, completely or partly, a determined fee payable by the person;
- (b) a decision refusing to refund, completely or partly, a determined fee paid by the person;
- (c) a decision refusing to defer, completely or partly, the person's liability to pay a determined fee;
- (d) a decision refusing to waive, completely or partly, payment of a determined fee by the person;
- (e) a decision refusing to allow the person the benefit of an exemption to pay a determined fee.

(2) If the registrar makes a decision to which this section applies, the registrar must give written notice of the decision to the eligible person.

(3) The notice must tell the eligible person that the person may—

- (a) apply to the registrar for a statement of reasons for the decision; and
- (b) apply for review of the decision under this section.

(4) The eligible person may apply to the registrar for a statement of reasons for the decision within 28 days after the day when the person is given notice of the decision by the registrar.

(5) The eligible person may apply to the court or tribunal for review of the decision within—

- (a) 28 days after the day the person is given notice of the decision by the registrar; or
- (b) if the person applies within the 28 days for a statement of reasons for the decision—28 days after the day when the person is given the statement of reasons.

(6) For the review, the court or tribunal—

- (a) must be constituted by—
 - (i) for the Supreme Court—a judge or the master; or
 - (ii) for the Court of Petty Sessions—a magistrate; or
 - (iii) for a tribunal—a member of the tribunal; and
- (b) may make the orders the court or tribunal considers appropriate.

(7) A fee is not payable for an application under this section.

PART 4 — ADMINISTRATION PROCEEDINGS

Division 4.1 — Preliminary

Definitions for Part 4

20. In this Part:

corresponding law means a law of a State or another Territory that is declared by regulation to be a law that corresponds to this Part.

Administration includes an Minister, instrumentality or agency of the Administration and a person prescribed by regulation.

Note: The *Norfolk Island Act 1979* (Cth) defines “Administration” as “the Administration or government of the Territory” – this definition extends that definition for the purposes of this Part.

judgment means any judgment or order of a court.

proceeding means civil proceeding.

Division 4.2 — Proceedings by and against Administration generally

Proceedings by and against the Administration generally

21. (1) Subject to this Act and any relevant rules of court and the *Judiciary Act 1903* (Cwlth)—

- (a) proceeding may be brought by or against the Administration in the same way as a proceeding between subjects; and
- (b) the same procedural and substantive law applies to such a proceeding as in a proceeding between subjects.

(2) Subject to the regulations and any other Act, a proceeding may be brought by or against the Administration under the name of the—

- (a) “Administration”; or
- (b) “Administration of Norfolk Island”.

(3) In this section:

proceeding, against the Administration, includes a proceeding to attach earnings or other debts due or accruing from the Administration to someone else.

Immunities and limitations of liability

22. This Division does not affect any immunity from, or limitation on, liability that the Administration enjoys by statute.

Corresponding laws of States and other Territories

23. The corresponding law of each State and other Territory binds the Administration.

Injunctive and declaratory relief

24. (1) Injunctive relief may be granted against the Administration.
- (2) However a mandatory injunction cannot be made against the Administration.
- (3) The Supreme Court may make binding declarations of right in a suit to which the Administration is a party whether or not any consequential relief is sought.
- (4) A party may not object to a suit seeking a declaratory order on the ground that only such order is sought.

Protection of confidentiality on grounds of public interest

25. This Division does not affect any rule of law under which a person may refuse to discover or produce documents, or to answer an interrogatory or other question, on the ground that to do so would be prejudicial to the public interest.

Right of Attorneys-General of other jurisdictions to appear in proceedings

26. (1) The Attorney-General of the Commonwealth may, on behalf of the Commonwealth, represent the Crown in right of the Commonwealth in any action, proceeding or matter (whether civil or criminal) in which the Crown in right of the Commonwealth is a party.
- (2) The Attorney-General of a State or another Territory may, on behalf of the State or other Territory, represent the Crown in right of the State or other Territory in any action, proceeding or matter in which the Crown in right of the State or other Territory is a party.

Right of Minister to intervene in proceedings

27. (1) The Minister may intervene, on behalf of the Administration, in any proceeding—
- (a) in which the interpretation or validity of a law of Norfolk Island or the Commonwealth is in issue; or
 - (b) in which—
 - (i) legislation or executive powers of Norfolk Island or the Commonwealth, or an instrumentality or agency of the Administration or the Commonwealth, are in issue; or
 - (ii) judicial powers of a court or tribunal established under the law of Norfolk Island or the Commonwealth are in issue;

for the purpose of submitting argument on the issue.

(2) The Minister has the same right of appeal in a proceeding in which the Minister intervenes under subsection (1) as a party to the proceeding.

(3) If the Minister intervenes or appeals under subsections (1) or (2) that intervention shall be in the name of the Administration and not in the name of the Minister.

(4) If the Minister intervenes in a proceeding under this section, and there are in the opinion of the court special reasons for making an order under this subsection, the court may make an order for costs against the Administration to reimburse the parties to the proceeding for costs occasioned by the intervention.

(5) In this section—

Minister means the Minister responsible for the administration of this Act.

Court fees and charges

28. (1) The Administration is not required to pay any court fee or charge in any proceeding.

(2) Any costs to which the Administration is entitled must be calculated as if the Administration were liable to pay, and had in fact paid, fees and charges from which it is exempt under subsection (1).

(3) In this section:

carries on business does not include imposing or collecting—

- (a) taxes; or
- (b) levies; or
- (c) fees for licences, permits or any other form of authority.

territory instrumentality has the meaning given by the *Public Sector Management Act 2000*.

Administration does not include a territory instrumentality so far as the instrumentality carries on business.

Enforcement of judgments against Administration

29. (1) A writ or similar process must not be issued out of any court to enforce a judgment against the Administration.

(2) If—

- (a) a final judgment is given against the Administration; and
- (b) the judgment has not been paid; and
- (c) the judgment has not been appealed against or stayed (or, if it has, the appeal has been disallowed or discontinued or the stay has been removed); and
- (d) at least 21 days have elapsed since the judgment was given;

the party in whose favour the judgment was given may give a copy of the judgment to the Minister responsible for the *Public Moneys Act 1979*.

(3) If the Minister receives a copy of a final judgment under subsection (2), he or she must give directions about how the judgment is to be paid unless he or she is satisfied that the judgment can be, or has been, paid in another way.

(4) A direction under this section that requires payment of money from the Public Account of Norfolk Island operates to authorise payment of the money.

(5) The *Public Moneys Act 1979* and any other Act necessitating an appropriation in order to make a payment from the Public Account does not apply to a payment made in accordance with a direction under this section.

(6) A direction under this section that requires payment of an amount from the funds of a territory instrumentality provides sufficient authority for the payment.

(7) In this section:

Administration—see section 28 (3).

Enforcement of judgments against Crown in right of a State or another Territory

30. (1) A writ or similar process must not be issued out of any Norfolk Island court to enforce a judgment against the Crown in right of a State or another Territory.

(2) If a final judgment is given by an Norfolk Island court against the Crown in right of a State or another Territory, the court must give a copy of the judgment to the Governor or Administrator of the State or Territory.

Enforcement of judgments by the Administration

31. Subject to this Part and any relevant rules of court, a judgment recovered by the Administration may be enforced in the same way as a judgment in a proceeding between persons, and not in any other way.

Division 4.3 — Provisions applying only to the Administration

Endorsement, etc of originating process

32. (1) If a proceeding is brought against the Administration, a statement containing the information prescribed by regulation (if any) must be endorsed on, or annexed to, the process by which the proceeding is begun.

(2) A failure to comply with subsection (1) does not render a proceeding void unless the court is of the opinion that the Administration has been prejudiced by that failure.

Service generally

33. (1) Any process or document relating to a proceeding must be served on the Administration by serving the process or document on the Crown Counsel.

(2) However—

- (a)** if this Part makes special provision about service of the process or document—the process or document must be served in accordance with the special provision; and
- (b)** if the party serving the process or document has notice that a lawyer other than the Crown Counsel is acting for the Administration in relation to the proceeding—the process or document must be served on that lawyer.

Service of subpoenas, etc on Ministers

34. (1) A subpoena or other process issued by a court, tribunal or authority requiring an Minister to appear, in the Minister's official capacity, to give evidence, or to produce documents, must be given to the Crown Counsel for service on the Minister.

(2) The Crown Counsel must, on receiving a subpoena or other process mentioned in subsection (1), make reasonable endeavours to serve it on the Minister and must provide proof of service to the court, tribunal or other authority.

(3) The Crown Counsel, if unable to serve a subpoena or other process within a reasonable time, must tell the court, tribunal or other authority of the reasons for not being able to effect service and, in that case, the court, tribunal or other authority may direct that service be effected in some other way.

Representation if right to legal representation restricted

35. (1) This section applies to a proceeding if—

- (a)** the Administration is a party to the proceeding; and
- (b)** an Act removes or restricts the right of a party to the proceeding to be represented by a lawyer.

(2) The Administration may be represented by a *public servant* (other than a lawyer, articled clerk or person who holds legal qualifications under a territory law or the law of another place) who is authorised to conduct the proceeding on behalf of the Administration.

(3) In the proceeding, a document apparently signed by a relevant person that appears to be an authorisation under subsection (2) must be accepted as an authorisation in the absence of evidence to the contrary.

(4) In this section:

relevant person means—

- (a) a Minister; or
- (b) Chief Executive Officer; or
- (c) the chief executive or principal officer of a territory instrumentality.

Division 4.4 — Other provisions

Exclusion of certain proceedings

36. (1) This Part does not affect—

- (a) any proceeding for the recovery or enforcement of a fine, penalty or forfeiture (including the escheatment of a recognisance) imposed in a criminal proceeding; or
- (b) any law, custom or procedure under which the Minister is entitled or liable to sue, or be sued, or intervene in a proceeding, on behalf of the Administration, on the relation, or on behalf of, any other person or people or in any other capacity or for any other purposes.

(2) Paragraph (1)(b) has the same meaning in Norfolk Island as it would have in the Commonwealth worded as “any law, custom or procedure under which the Attorney General is entitled or liable to sue, or be sued, or intervene in a proceeding, on behalf of the Crown, on the relation, or on behalf of, any other person or people or in any other capacity or for any other purposes”.

Regulations for Part 4

37. A regulation may make provision in relation to—

- (a) the details to be stated or to accompany process served on the Administration; and
- (b) the service of process or other documents under this Part.

Part 5 — Court security

Definitions for Part 5

40. In this Part—

sheriff means a person who is appointed under the *Supreme Court Act 1960*, section 15.

court means—

- (a) the Supreme Court; or
- (b) the Court of Petty Sessions; or

- (c) the Court of Petty Sessions when dealing with matters under section 246A of the *Court of Petty Sessions Act 1960* or another courts established to hear matters concerning children and young persons; or
- (d) the Coroner's Court; or
- (e) the administrative review tribunal; or
- (f) the mental health tribunal; or
- (g) a royal commission established under the *Royal Commissions Act 1928*; or
- (h) a court prescribed by regulation; or
- (i) any other tribunal or entity that is authorised to hear, receive and examine evidence and is prescribed by regulation.

court premises means the premises or place where a court is held or that is used in relation to the operations of a court, and includes—

- (a) a forecourt, courtyard, yard or area used with court premises; and
- (b) a part of premises or a place used as an entrance to or exit from court premises.

firearm—see the *Firearms Act 1997*, section 3.

judge means a judge of the Supreme Court, and includes a person prescribed by regulation for this definition.

magistrate includes a person prescribed by regulation for this definition.

offensive weapon means—

- (a) anything made or adapted for use, or capable of being used, for causing injury to or incapacitating a person; or
- (b) anything intended for that use by the person who is carrying it or otherwise has it in the person's possession;

and includes an imitation or replica of an offensive weapon.

screening search means—

- (a) for a search of a person—a search by equipment designed to conduct the search without touching the person; and
- (b) for a search of a thing—a search by equipment designed to conduct the search without touching the thing or requiring it to be opened.

security officer means—

- (a) a police officer; or
- (b) the sheriff; or
- (c) a person who is appointed as a security officer under section 51.

Right of entry, etc to court premises

41. (1) A person has a right to enter and remain in an area of court premises that is open to the public if—

- (a) the person complies with all orders made by a judge or magistrate, whether under this Act or otherwise; and
- (b) the person complies with all the requirements made under this Part by a security officer; and
- (c) if the person wishes to enter or remain in a courtroom where a court is sitting or about to sit—there is seating for the person in the courtroom.

(2) This section is subject to—

- (a) the *Court of Petty Sessions Act 1960* section 246A, (Proceedings concerning children not open to the public); and
- (b) the following sections of the *Evidence Act 2004*:
 - section 126B (Exclusion of evidence of protected confidences);
 - section 126E (Ancillary orders);
 - section 126G (Exclusion of evidence of protected sexual assault communications);
 - Division 3 of Part 3.10 (Evidence excluded in the public interest); and
 - section 181T (Proceedings in camera);
- (c) the *Court of Petty Sessions Act 1960*, section 149 (Open Court); and
- (d) the *Mental Health Act 1996*, section 11(6) (proceedings to be in private); and
- (e) the inherent jurisdiction of a court to regulate its proceedings; and
- (f) any other law in force in the Norfolk Island about the people who may be present in a court or on court premises.

Powers under Part additional to other powers

42. The powers under this Part are additional to any other powers that a court, judge, magistrate, police officer, sheriff or anyone else has apart from this Part.

Security officer to be identified before exercising powers

43. (1) A security officer who is not a police officer or sheriff's officer may exercise a power under this Part in relation to a person only if—

- (a) the officer first identifies himself or herself as a security officer if it is practicable to do so; and
- (b) the officer produces his or her identity card for inspection by the person if the person asks the officer to do so.

(2) A security officer who is a police officer or sheriff and is not in uniform may exercise a power under this Part in relation to a person only if—

- (a) the officer first identifies himself or herself as a police officer or sheriff if it is practicable to do so; and
- (b) the officer produces evidence that he or she is a police officer or sheriff if the person asks the officer to do so.

(3) If a security officer fails to comply with this section in relation to a person, the person is not obliged to comply with a requirement made by the officer.

Person may be required to state name, etc

44. (1) If a security officer believes on reasonable grounds that a person entering or on court premises is behaving unlawfully, is behaving in a disorderly or menacing way or is a threat to court security, the security officer may require the person to tell the officer—

- (a) the person's name; and
- (b) the person's reason for entering or being on the premises.

(2) A person must not, without reasonable excuse, fail to tell a security officer the person's name, or the person's reason for entering or being on the court premises, when required to do so under subsection (1).

penalty: 5 penalty units.

(3) A person must not give a name, or other information, that is false or misleading in a material particular in purported compliance with a requirement under subsection (1).

penalty: 20 penalty units.

Searches

45. (1) A security officer may require a person entering or on court premises to do any of the following:

- (a) to undergo a screening search;
- (b) to allow anything in the person's possession to be subjected to a screening search;
- (c) to open and empty out the person's pockets;
- (d) to open or empty a briefcase, bag or container (for example, a box or carton) the person is carrying or is otherwise in the person's possession or allow the security officer to search anything the person is carrying or is otherwise in the person's possession.

(2) A security officer may make a requirement under this section only if the officer believes on reasonable grounds that it is necessary to make the requirement in the interests of court security for the purpose of detecting firearms, explosives or offensive weapons.

(3) If a security officer makes a requirement of a person under this section, the person must immediately comply with the requirement or leave the court premises.

Maximum penalty: 50 penalty units.

(4) A security officer who conducts a search under this section must not use more force, or subject a person to greater indignity, than is necessary to conduct the search.

Seizure and forfeiture of firearms, etc

46. A security officer may seize a firearm, explosive or offensive weapon that a person entering or on court premises is carrying or otherwise has in the person's possession.

Security officer may require thing that may hide firearms, etc to be left

47. (1) A security officer may require a person entering or on court premises with anything to leave the thing with the officer if the officer believes on reasonable grounds that the thing may contain a firearm, explosive or offensive weapon or be used as an offensive weapon.

(2) If a security officer makes a requirement of a person under this section, the person must immediately comply with the requirement or leave the court premises.

Maximum penalty: 50 penalty units, 6 months imprisonment or both.

(3) If a person leaves something with a security officer under this section, the person is entitled, on request to a security officer, to the return of the thing when the person leaves the court premises.

Unlawful, disorderly conduct, etc

48. (1) If a security officer believes on reasonable grounds that a person entering or on court premises is behaving unlawfully or in a disorderly or menacing way, the officer may require the person not to enter, or to leave, the court premises.

(2) However, if the person tells the security officer that the person is required to attend the court, the officer may only make the requirement with the court's leave or if the officer is satisfied on reasonable grounds that the person is not required to attend the court.

(3) For this section, a person is required to attend a court if—

- (a) the person is a lawyer who is to appear before the court; or
- (b) the person is a party to a proceeding being heard, or about to be heard, by the court; or
- (c) the person is required to attend the court by a summons, subpoena or other court process or order; or
- (d) the person is accompanying a person mentioned in paragraph (a) to (c).

- (4) A person must not contravene a requirement under this section.

Maximum penalty: 50 penalty units, 6 months imprisonment or both.

Contravention of requirement of security officer

49. (1) If a person contravenes a requirement of a security officer under section 44 (Person may be required to state name etc), section 45 (Searches) or section 47 (Security officer may require thing that may hide firearms etc to be left), a security officer may require the person—

- (a) not to enter the court premises or a part of the court premises; or
- (b) to immediately leave the court premises or a part of the court premises.

(2) However, if the person tells the security officer that the person is required to attend the court, the officer may only make the requirement with the court's leave or if the officer is satisfied on reasonable grounds that the person is not required to attend the court.

- (3) For this section, a person is required to attend a court if—
- (a) the person is a lawyer who is to appear before the court; or
 - (b) the person is a party to a proceeding being heard, or about to be heard, by the court; or
 - (c) the person is required to attend the court by a summons, subpoena or other court process or order; or
 - (d) the person is accompanying a person mentioned in paragraph (a) to (c).

- (4) A person must not contravene a requirement under this section.

Maximum penalty: 50 penalty units.

(5) A security officer may prevent a person from entering court premises or a part of court premises in contravention of a requirement under this section or section 48.

(6) If a person on court premises contravenes a requirement under this section or section 48, a security officer may require the person to leave the court premises and, if the person does not immediately leave the court premises, remove the person from the court premises using reasonable force.

Judge or magistrate may close court premises

50. (1) If a judge or magistrate considers it necessary for securing order and safety in court premises or a part of court premises, the judge or magistrate may—

- (a) order members of the public generally, or stated members of the public, to leave the court premises or a part of the court premises; or
- (b) order members of the public generally, or stated members of the public, not to be admitted to the court premises or a part of the court premises.

(2) A person must not contravene an order of a judge or magistrate under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A security officer may prevent a person from entering court premises or a part of court premises in contravention of an order under this section.

(4) If a person on court premises contravenes an order under this section, a security officer may require the person to leave the court premises and, if the person does not immediately leave the court premises, remove the person from the court premises using reasonable force.

Security officers

51. (1) The Chief Executive Officer may appoint a person (other than a police officer or sheriff's officer) to be a security officer.

Note 1 For the making of appointments (including acting appointments), see the *Interpretation Act 1979*, s 36 and 36A.

Note 2 Each police officer and the sheriff is a security officer (see s 40, def *security officer*).

(2) The Chief Executive Officer may appoint a person as a security officer only if the Chief Executive Officer is satisfied the person—

- (a) has not committed an offence against this Part or has not been convicted or found guilty of an offence involving fraud, dishonesty, violence, drugs or weapons; and

(b) is capable of competently exercising the functions of a security officer under this Part.

(3) The Chief Executive Officer may end the appointment of a person as a security officer if—

- (a) the person commits an offence against this Part or has been convicted or found guilty of an offence involving fraud, dishonesty, violence, drugs or weapons; or
- (b) the Chief Executive Officer revokes the persons appointment.

Identity cards for security officers

52. (1) The Chief Executive Officer must issue an identity card to each security officer who is not a police officer or sheriff.

- (2)** The identity card must—
- (a) state that the person to whom the card is issued is a security officer for this Part; and
 - (b) show—
 - (i) a recent photograph of the person; and
 - (ii) the name of the person; and
 - (iii) the date of issue of the card; and
 - (iv) a date of expiry of the card; and
 - (v) anything else prescribed by regulation.
 - (3)** A security officer who is not a police officer or sheriff must—
 - (a) at all times while on duty at court premises wear the officer's identity card so it is clearly visible; and
 - (b) produce it for inspection by a person if the person asks the security officer to do so.

Maximum penalty: 1 penalty unit.

(4) A person appointed as a security officer who ceases to be a security officer must return the officer's identity card to the Chief Executive Officer as soon as practicable, but within 21 days after ceasing to be a security officer.

Maximum penalty: 1 penalty unit.

PART 6 — MISCELLANEOUS**Assignment of earnings not enforceable**

- 53. (1)** An assignment of earnings is not enforceable.
- (2)** Subsection (1) has effect regardless of—
- (a) the nature of the instrument effecting the assignment; or
 - (b) the nature of the transaction that gave rise to the assignment.
- (3)** In this section:

earnings means a sum payable to a person—

- (a) by way of wages or salary, including any fee, bonus, commission, overtime pay or other emolument payable in addition to wages or salary; or

- (b) by way of pension, including—
 - (i) an annuity in relation to past services, whether or not the services were rendered to the person paying the annuity; and
 - (ii) periodical payments in relation to compensation for the loss, abolition or relinquishment, or any diminution in the emoluments, of any office or employment; and
 - (iii) periodical payments in relation to compensation for the loss of wages or salary because of illness or injury.

Regulation-making power

54. The Administrator may make regulations for this Act.

Note A regulations must be notified, and presented to the Legislative Assembly, under the *Interpretation Act 1979*.

Repeal

55. (1) Upon the commencement of this Act the *Suits by and against the Administration Act 1979* is repealed.

(2) Nothing in subsection (1) affects any proceeding already commenced when this Act comes into force and to which the *Suits by and against the Administration Act 1979* may apply.

PART 7 — TEMPORARY PROVISIONS

Division 7.1 — General

....

Division 7.2 — Arrest on mesne process

Meaning of *capias* for Division 7.2

62. In this Division —
capias means *capias ad respondendum*.

No arrest on mesne process except under Division 7.2

63. No person shall be arrested on mesne process in any civil action in any court except in the cases and in the way provided in this Division.

Order to hold to bail

64. In any action in the Supreme Court, if a judge is satisfied by affidavit disclosing the facts constituting the ground of the plaintiff's claim, or by evidence on oath before the judge, that the plaintiff has prima facie a good cause of action in relation to the plaintiff's claim against the defendant and is also satisfied by the affidavit of the plaintiff or some other person—

- (a) that the cause of action is to the amount of \$40 or upwards, or that the plaintiff has sustained damage to that amount; and
- (b) that any defendant is about to remove or is making preparations to remove out of the jurisdiction of the court; and
- (c) that the action will be defeated unless the defendant is forthwith apprehended; and
- (d) that the application is made within a reasonable time after the fact of the defendant's intention so to remove came to the knowledge of the plaintiff or might have become known to him or her by reasonable diligence on his part;

the judge may by a special order direct that the defendant shall be held to bail for the sum that the judge considers appropriate, not exceeding the amount of the debt or damages.

Issue of writ of capias

65. Thereupon the plaintiff, within the time expressed in the order but not afterwards, may sue out 1 or more writ or writs of capias against the defendant.

Execution of writ

66. (1) The sheriff or other officer to whom any such writ is directed shall, before the return of the writ but not afterwards, proceed to arrest the defendant on it.

- (2) A writ may be lawfully executed on a Sunday.

Order and arrest to be during pendency of action

67. The order may be made and the defendant arrested under it at any time after the beginning of the action and before final judgment is obtained in it.

Defendant to remain in custody until bail bond given or deposit made

68. The defendant when arrested shall remain in custody until the defendant has given a bail bond to the sheriff or other officer, or has made deposit of the sum endorsed on the writ of capias, together with \$20 costs.

Subsequent proceedings subject to rules of court

69. All subsequent proceedings about putting in and perfecting special bail shall be subject to, and in accordance with, the practice and procedure of the court.

Application for order nisi for discharge

70. Any person arrested on a writ of *capias* may apply to a judge at any time after the arrest for an order on the plaintiff to show cause why the person should not be discharged out of custody.

Proceedings on order nisi

71. Any judge may make absolute or discharge the order, and may direct the costs of the application to be paid by either party, and may make any other order that he or she considers appropriate.

Appeal

72. On the application of either party dissatisfied with any such order, the Supreme Court may discharge or vary it.

Discharge on bankruptcy

73. (1) Any person in the custody of any sheriff, gaoler, or officer under any such writ shall on the sequestration of the person's estate under the law in force for the time being relating to bankruptcy, be entitled to his or her discharge from the custody on the order of a judge of a court exercising jurisdiction in bankruptcy, and shall be forthwith discharged from the custody either absolutely or on any conditions that the judge may impose.

(2) No such sheriff, gaoler, or officer shall incur any liability in relation to the discharge to any person for anything done by him or her under this section.

Expiry of Division 7.2

74. (1) This Division expires on the existing rules expiry day or, if the rules fix a different expiry day for this Division, that day.

(2) In this section:

existing rules expiry day—see section 60 (3).

Division 7.3 Attachment of earnings

Definitions for Division 7.3

76. In this Division —

court includes a person competent to make an order for the attachment of a debt.

dependant, in relation to a judgment debtor, means a person to whose maintenance the judgment debtor contributes or is liable to contribute.

earnings—see section 53(3).

judgment debtor means a person liable under a judgment or order (whether obtained before or after the commencement of this Act) for the recovery or payment of money or costs.

Limitation on attachment of wages

77. A court shall not make an order for the attachment of earnings of a judgment debtor that would, if enforced, reduce those earnings to an amount that is less than an amount calculated—

- (a) if the judgment debtor has any dependants—at the rate of such amount per week as is equal to the amount of the minimum rate for the time being determined under the *Employment Act 1988*; or
- (b) if the judgment debtor does not have any dependants—at the rate of such amount per week as is equal to $\frac{3}{4}$ of the amount of the minimum rate for the time being payable determined under the *Employment Act 1988*.

Expiry of Division 7.3

78. (1) This Division expires on the existing rules expiry day or, if the rules fix a different expiry day for this Division, that day.

(2) In this section:

existing rules expiry day—see section 60 (3).

Division 7.4 — Stay of proceedings

Stay of proceedings

80. (1) If it is shown to the satisfaction of a court that a person, against whom any proceeding has been begun in the court for the payment of a sum of money—

- (a) has suffered a loss; or
- (b) is in the circumstances;

that a judgment given or an order made for the immediate payment of the sum of money or any substantial part of it would entail serious hardship, the court may, at any time before judgment is given or an order is made in the proceeding, on the application of that person, in its discretion, if in all the circumstances it considers it desirable so to do, direct a stay of proceedings or further proceedings until the time and on the conditions that the court considers appropriate.

(2) An application made under the subsection (1) shall not be taken or construed as an admission of liability by the applicant.

Stay of execution

81. (1) If it is shown to the satisfaction of a court that a person, against whom the court has given judgment or made an order for the payment of a sum of money—

- (a) has suffered such a loss; or
- (b) is in such circumstances;

that the immediate payment of the whole or any part of the sum will entail serious hardship, the court may, at the time of giving the judgment or the making of the order, or subsequently, on the application of the person adjudged or ordered to pay the sum of money, in its discretion, if in all the circumstances it considers it desirable so to do, order that the payment of the whole or part of the sum shall be deferred until the time and on the conditions that the court considers appropriate.

(2) An application under this section shall operate as a stay of proceedings on the judgment or order until the hearing of the application.

Rescission or variation of previous direction or order

82. (1) A court may, on the application of any party, rescind or vary any direction or order previously made by it under this Division.

- (2)** In this section:

party means party to the proceeding in connection with which the direction or order was made.

Expiry of Division 7.4

83. (1) This Division expires on the existing rules expiry day or, if the rules fix a different expiry day for this Division, that day.

- (2)** In this section:

existing rules expiry day—see section 60 (3).

Division 7.5 — Set-off of debts

Mutual debts to be set one against the other

84. If there are mutual debts for liquidated amounts between the plaintiff and defendant, or if either party sue or be sued as executor or administrator, if there are mutual debts between the testator or intestate and either party, one debt may be set against the other, and the matter may be given in evidence on the general issue, or pleaded in bar, as the nature of the case shall require, so as at the time of his or her pleading the general issue, if any such debt of the plaintiff, his or her testator or intestate, is intended to be insisted on in evidence, notice shall be given of the particular sum or debt so intended to be insisted on, and on what account it became due, or otherwise the matter shall not be allowed in evidence on such general issue.

Exception

85. By virtue of section 84, mutual debts may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, in the way mentioned in the section, notwithstanding that the debts are deemed in law to be of a different nature;

unless in cases where either of the debts shall accrue because of a penalty contained in any bond or specialty;

and in all cases where either the debt for which the action has been or shall be brought, or the debt intended to be set against it has accrued, or shall accrue, by reason of any such penalty, the debt intended to be set off shall be pleaded in bar, in which plea shall be shown how much is truly and justly due on either side;

and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly justly due to the plaintiff, after one debt being set against the other.

Expiry of Division 7.5

86. (1) This Division expires on the existing rules expiry day or, if the rules fix a different expiry day for this Division, that day.

(2) In this section:

existing rules expiry day—see section 60 (3).

Division 7.6 *Judgment creditors remedies*

Limitation of arrest under *ca. sa.*

87. Except as provided in this Division, no person shall be arrested on any writ of *capias ad satisfaciendum* issuing out of the Supreme Court.

Fraudulent concealment or intended departure

88. If a judge of the Supreme Court is satisfied by affidavit that the defendant—

- (a) has fraudulently concealed money, goods or valuable securities from his or her judgment creditor; or
- (b) is about to leave the jurisdiction of Norfolk Island either permanently or for an indefinite period, without satisfying the judgment;

the judge may order a writ of *capias ad satisfaciendum* to issue, and the defendant may be arrested on the writ.

Exception for certain actions

89. Section 87 and section 88 do not apply to a writ issued for libel, slander or any malicious injury.

Ca. sa. to fix bail

90. If a defendant has been arrested or has given bail on a writ of *capias ad respondendum*, a writ of *capias ad satisfaciendum* may be issued to fix the bail or charge the defendant in execution as of course.

Liability for escape

91. If any debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor shall be liable only to an action on the case for damages sustained by the person at whose suit the debtor was taken or imprisoned, and shall not be liable to any action of debt in consequence of the escape.

Discharge of judgment debtor on authority of lawyer

92. (1) A written order signed by the lawyer in the cause by whom any writ of *capias ad satisfaciendum* has been issued shall justify the sheriff, gaoler, or person in whose custody the party may be in discharging the party unless the party for whom the lawyer professes to act has given written notice to the contrary to the sheriff, gaoler, or person.

(2) The discharge shall not be a satisfaction of the debt unless made by the authority of the creditor.

(3) Nothing in this section shall justify any lawyer in giving an order for discharge without the consent of his or her client.

Ca. sa. may be executed on Sunday

93. Any writ of *capias ad satisfaciendum* issued out of the Supreme Court may be lawfully executed on Sunday.

Expiry of Division 7.6

94. (1) This Division expires on the existing rules expiry day or, if the rules fix a different expiry day for this Division, that day.

(2) In this section:

existing rules expiry day—see section 60 (3).

PART 8 — TRANSITIONAL**Modification of Part 8's operation**

104. A regulation may modify the operation of this Part (including in its operation in relation to another Norfolk Island law) to make provision in relation to anything that, in the Administrator's opinion, is not, or is not adequately, dealt with in this Part.

Expiry of Part 8

105. This Part expires 2 years after the day it commences.

Schedule 1 — Subject matter for rules

(see section 7)

Part 1.1 — General**1 Jurisdiction**

- (1) The jurisdiction of Norfolk Island courts, including civil, criminal and any appellate jurisdiction of the Supreme Court.
- (2) the jurisdiction of prescribed tribunals.
- (3) the jurisdiction of the registrars and deputy registrars, clerks and deputy clerks, including review of their decisions.

2 Service of documents

Service of documents, including, for example, the following:

- (a) the kinds of service, including personal service and electronic service;
- (b) service outside Norfolk Island or Australia;
- (c) service of foreign legal process in Norfolk Island.

3 Evidence

Taking evidence generally, including, for example, the following:

- (a) the way evidence may be given;
- (b) dispensing with the rules of evidence;
- (c) taking evidence out of court;
- (d) taking of evidence for future claims;
- (e) subpoenas;
- (f) affidavits and exchange of correspondence instead of affidavit evidence;
- (g) obtaining evidence, including calling witnesses;
- (h) taking evidence outside Norfolk Island or Australia;
- (i) taking evidence in Norfolk Island for foreign courts and tribunals.

4 Certain proceedings

- (1) Review of Court of Petty Sessions decisions by order nisi;
- (2) cases stated and questions reserved to the Supreme Court;
- (3) cases stated and questions reserved from the Supreme Court to the Court of Appeal.

5 Admission of lawyers

The admission of legal practitioners.

6 Miscellaneous

The following matters:

- (a) case management;
- (b) documents filed in registries, including electronic filing;
- (c) the receipt, issue or transmission electronically of forms and other documents and material for use in, or in relation to, proceedings;
- (d) functions of registries generally;
- (e) exhibits and other things held by a Norfolk Island court or prescribed tribunal for a proceeding, including, for example, disposal or destruction of unclaimed things;
- (f) rules relating to lawyers acting for parties in proceedings;
- (g) rules about the reckoning of time and anything else about time;
- (h) the conduct of business in chambers;
- (i) transitional arrangements.

Part 1.2 Civil proceedings**7 Beginning proceedings**

Beginning proceedings, including, for example, the following:

- (a) originating process, including duration, renewal and setting aside;
- (b) where to begin proceedings;
- (c) preliminary discovery, including discovery to identify defendants.

8 Transfer between courts

Transfer of proceedings between courts, including, for the Supreme Court, cross-vesting of jurisdiction.

9 Parties and proceedings

Parties and proceedings, including, for example, the following:

- (a) several causes of action and parties in civil proceedings, including reconstitution of proceedings and representative parties;
- (b) multiple civil proceedings;
- (c) interpleader proceedings;
- (d) proceedings by or against businesses or people with a legal disability;
- (e) third-party procedure.

10 Appearance

Appearances, including, for example, the following:

- (a) entering appearances;
- (b) conditional appearances.

11 Pleadings

Pleadings, including, for example, the following:

- (a) matters in pleadings and particulars;
- (b) progress of pleadings;
- (c) particular pleadings, including statements of claim, defences and counterclaims;
- (d) striking out pleadings and particulars.

12 Disclosure

Disclosure, including, for example, the following:

- (a) disclosure by parties, including discovery and inspection of documents and interrogatories;
- (b) non-party disclosure;
- (c) admissions;
- (d) disclosure of experts reports and hospital reports;
- (e) disclosure of other material to which legal professional privilege may attach, including by direction or order of the court or tribunal.

13 Preservation of rights and property

Preservation of rights and property, including, for example, the following:

- (a) inspection, detention and preservation of property;
- (b) injunctions, including, for the Supreme Court, Mareva injunctions and Anton Piller orders;
- (c) for the Supreme Court—receivers and sales by court order.

14 Ending proceedings early

Ending proceedings early, including, for example, the following:

- (a) ending proceedings because of default;
- (b) summary decisions;
- (c) discontinuance and withdrawal;
- (d) offers to settle and payments by defendants;
- (e) the referral of cases to arbitration;
- (f) alternative dispute resolution processes.

15 Court supervision

Court supervision, including, for example, the following:

- (a) directions about conducting proceedings;
- (b) consequences of failing to comply with rules, directions or court orders;
- (c) amendments, with and without leave;
- (d) continuation of proceedings after delay;
- (e) pre-trial matters, including pre-trial directions and rulings.

16 Expert evidence

Expert evidence generally, including, for example, the following:

- (a) giving immunity from action to experts in relation to reports tendered in evidence;
- (b) matters relating to court experts, including—
 - (i) how the court is to choose an expert; and
 - (ii) how experts may give evidence and be questioned;
- (c) defining the duty of expert witnesses in relation to the court and the parties;
- (d) prescribing the basis of, and conditions for, admissibility of expert evidence.

17 Trials and other hearings

Trials and other hearings, including, for example, the following:

- (a) practice lists;
- (b) list applications for hearing and setting trial dates;
- (c) conduct of trials;
- (d) decisions without pleadings or without hearings;
- (e) separate decisions on questions;
- (f) assessors and special referees;
- (g) assessment of damages;
- (h) simplified procedures for minor debt claims and other claims.

18 Judgments

Judgments, including, for example, the following:

- (a) effect of judgments;
- (b) setting aside judgments.

19 Particular proceedings

Particular proceedings, including, for example, the following:

- (a) taking of accounts;
- (b) proceedings for damages for personal injury or death;
- (c) the payment of amounts into court;
- (d) for the Supreme Court—judicial review proceedings;
- (e) for the Supreme Court—prerogative remedy proceedings.

20 Interest

Interest, including, for example, the following:

- (a) interest up to judgment;
- (b) interest on judgments.

21 Administration and probate

For the Supreme Court, administration and probate, including, for example, the following:

- (a) applications for grants of probate or letters of administration and the documents required;
- (b) resealing grants;
- (c) caveats objecting to grants, orders to administer or resealing grants;
- (d) contested proceedings.

22 Adoption

For the Supreme Court, adoption, including, for example, applications for adoptions.

23 Arbitration

For the Supreme Court, arbitration, including, for example, the use of court-appointed referees.

24 Contempt of court

For the Supreme Court, contempt of court, including, for example, the following:

- (a) contempt of the court as constituted other than by a judge;
- (b) proceedings for failure to comply with orders, other than orders to pay an amount.

25 Trusts

For the Supreme Court, trusts.

26 Costs

Costs, including, for example, the following:

- (a) security for costs;
- (b) entitlement to recover costs;
- (c) costs of parties in proceedings;
- (d) assessment of costs;
- (e) taxation of costs.

27 Appeals

Appeals, including, for example, the following:

- (a) for the Court of Petty Sessions and prescribed tribunals—appeals to the Supreme Court;
- (b) for the Supreme Court—
 - (i) appeals to the Supreme Court other than to the Court of Appeal;
and
 - (ii) appeals to the Court of Appeal.

28 Enforcement of judgments

Enforcement of judgments, including, for example, the following:

- (a) enforcement hearings, including examination procedures;
- (b) enforcement orders, including the following:
 - (i) enforcement orders for entry onto, and delivery of possession of, land;
 - (ii) enforcement orders for seizure and sale of property;
 - (iii) enforcement orders for seizure and delivery of particular goods;
 - (iv) enforcement orders for seizure and detention of property;
 - (v) enforcement orders for the attachment or redirection of debts, income and other money;
 - (vi) for the Supreme Court—enforcement orders for charging orders and stop orders;
- (c) instalment orders;
- (d) powers of enforcement officers.

29 Reciprocal enforcement of foreign judgments

Reciprocal enforcement of foreign judgments.

Part 1.3 Criminal proceedings

30 Practice and procedure in criminal jurisdiction

Practice and procedure in the criminal jurisdiction of the Court of Petty Sessions and Supreme Court (including any appellate jurisdiction) generally, including, for example, the following:

- (a) forms for proceedings;
- (b) beginning criminal proceedings, including indictments and informations;
- (c) appearance;
- (d) arraignments;
- (e) applications;
- (f) pleadings;
- (g) duties of lawyers and the court;
- (h) pre-trial matters, including pre-trial directions and rulings;
- (i) regulating hearings and trial proceedings;
- (j) expert evidence;
- (k) custody and inspection of exhibits;
- (l) recording of proceedings and access to records;
- (m) costs payable to defendants in particular circumstances;
- (n) inspecting registry files;
- (o) appeals, including appeals to the Supreme Court;
- (p) listing trials, sentences, applications and appeals for hearing, and setting hearing dates;
- (q) enforcement of decisions.

Dictionary

(see section 3)

Note 1 The *Interpretation Act 1979* contains definitions and other provisions relevant to this Act.

advisory committee means the advisory committee established under section 11.

appeals court means the Full Court of the Federal Court

“Chief Executive Officer” has the meaning given by the *Public Sector Management Act 2000*, section 4;

corresponding law, for Part 4 (Crown proceedings)—see section 20.

court, for Part 5 (Court security)—see section 40.

court premises, for Part 5 (Court security)—see section 40.

- determined fee*, for Part 3 (Court and tribunal fees)—see section 12.
- fee*, for Part 3 (Court and tribunal fees)—see section 12.
- firearm*, for Part 5 (Court security)—see the *Firearms Act 1997*, section 3.
- judge*, for Part 5 (Court security)—see section 40.
- judgment*, for Part 4 (Crown proceedings)—see section 20.
- magistrate*, for Part 5 (Court security)—see section 40.
- offensive weapon*, for Part 5 (Court security)—see section 40.
- prescribed tribunal*, for Part 2 (Court rules and forms) and Schedule 1 (Subject matter for rules)—see section 6.
- proceeding*, for Part 4 (Administration proceedings)—see section 20.
- public servant*—means an “employee” defined in the *Public Sector Management Act 2000* s 4 as a person appointed to the public service under that Act.
- relevant legislation*, for Part 3 (Court and tribunal fees)—see section 12.
- rule-making committee* means the rule-making committee established under section 9.
- screening search*, for Part 5 (Court security)—see section 40.
- security officer*, for Part 5 (Court security)—see section 40.
- sheriff*, for Part 5 (Court security)—see section 40.
- Administration*, for Part 4 (Administration proceedings)—see section 20.
- tribunal*, for Part 3 (Court and tribunal fees)—see section 12.
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NOTES

The *Court Procedures Act 2007* as shown in this consolidation comprises Act No. 13 of 2007 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Court Procedures Act 2007</i>	13, 2007	Assent was given on 27.11.07 – see Gaz No. 54, 29.11.07; commencement was 120 days after gazettal, ie 30.03.08.	Part 8 expires 2 years after commencement of Part ie, 30.03.2010
<i>Justice Legislation (Miscellaneous Amendments) Act 2009</i>	14, 2009	11.09.2009	
[previously consolidated as at 18 September 2009]			
<i>Interpretation (Amendment) Act 2012</i> [to substitute throughout – <i>Commonwealth Minister for Minister;</i> <i>and to substitute Minister for executive member</i>]	14, 2012	28.12.12	

Table of Amendments

Provisions affected	How affected
11	am 14, 2012
13	am 14, 2012
20	am 14, 2012
27	am 14, 2012
29	am 14, 2012
34	am 14, 2012
35	am 14, 2012
36	am 14, 2012
60	rep 14, 2009

[NB – certain sections are omitted but their numbering remains in order to maintain parity in section numbering with the *Court Procedures Act 2004* of the Australian Capital Territory]

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