



District Court of Queensland Act 1967

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District Court of Queensland Act 1967

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District Court of Queensland Act 1967

An Act to consolidate and amend the law relating to the District Court of Queensland

Part 1 Preliminary

1 Short title

This Act may be cited as the *District Court of Queensland Act 1967*.

2 Suspension of Act's operation

A regulation may provide that this Act or a provision of this Act is not in force for a district.

3 Definitions

In this Act—

action means a civil proceeding commenced by plaintiff.

Australian lawyer see the *Legal Profession Act 2007*, schedule 2.

Chief Justice means the Chief Justice of Queensland or the acting Chief Justice of Queensland.

court means the District Court of Queensland.

deputy sheriff means a deputy sheriff appointed under the *Supreme Court of Queensland Act 1991*.

district means a district of the District Court declared under section 7.

District Court means the District Court of Queensland.

District Court judge means a judge of the District Court of Queensland.

enforcement warrant means an enforcement warrant under the *Civil Proceedings Act 2011*, section 90.

goods includes money or bank notes, and cheques, bills of exchange, promissory notes, specialties, or other securities for money.

incorporated legal practice see the *Legal Profession Act 2007*, schedule 2.

judge means a judge of the District Court of Queensland.

judgment includes a judgment, order, or other decision or determination of the court.

landlord means the person entitled to the immediate reversion of land, or, if it is held in joint tenancy, coparcenary, or tenancy in common, any 1 of the persons entitled to the reversion.

lawyer means an Australian lawyer who, under the *Legal Profession Act 2007*, may engage in legal practice in this State.

Magistrates Courts district means a district appointed under the *Justices Act 1886* for the purpose of Magistrates Courts constituted under that Act.

matter means a proceeding in the Court commenced otherwise than by plaint.

precincts, of the District Court, means any land or building, or the part of any land or building, used for the purposes of the court.

registrar includes the principal registrar appointed under section 36.

rules means the *Uniform Civil Procedure Rules 1999*.

sheriff means the Sheriff of Queensland appointed under the *Supreme Court of Queensland Act 1991*.

Part 2 **Court, judges, registry and officers**

Division 1 **Court**

5 **Members and constitution of Court**

- (1) The members of the District Court are the District Court judges.
- (2) The District Court is constituted by any one of its members.

6 **Where the Court may be held**

- (1) The District Court may be constituted at any place.
- (2) The District Court as constituted by any of its members may sit in more than 1 place at the same time.
- (3) A regulation may declare—
 - (a) the places at which the District Court is to be held; or
 - (b) that the District Court is no longer to be held at a place.
- (4) The District Court held at a place may be referred to as the District Court at the place.

Example—

If the District Court is held at Toowoomba, the District Court at that place may be referred to as the District Court at Toowoomba.

7 **Declaration of districts**

- (1) A regulation may declare a district for the District Court at a place.
- (2) The district has the same name as the place.

Example—

The name of the district for the District Court at Toowoomba, is the Toowoomba District Court district.

- (3) The district must consist of—
- (a) 1 Magistrates Courts district; or
 - (b) 1 division of a Magistrates Courts district; or
 - (c) if the District Court district would form 1 continuous area—
 - (i) 2 or more Magistrates Courts districts; or
 - (ii) 2 or more divisions of a Magistrates Courts district; or
 - (iii) 1 or more Magistrates Courts districts and 1 or more divisions of a Magistrates Courts district.
- (4) If the District Court is no longer to be held at a place, a regulation may declare that all proceedings pending in the court at the place must be continued in the court at a specified place.

8 Court to be a court of record

The District Court is a court of record and has civil and criminal jurisdiction as provided under this or another Act.

8A Statewide jurisdiction

The District Court has jurisdiction throughout Queensland.

8B Court seal

- (1) The court is to have and use a seal with the words ‘District Court of Queensland’.
- (2) The court may have other seals required for the business and administration of the court.

Division 2 Judges

10 Chief Judge

- (1) The Governor in Council may, by commission, appoint a judge as Chief Judge of the District Court of Queensland.

Note—

See the *Constitution of Queensland 2001*, section 59 for the oath or affirmation requirement.

- (2) The Governor in Council may, by gazette notice, appoint a judge to act as Chief Judge during any period, or all periods, when the Chief Judge is absent from duty or the State, or is, for another reason, unable to perform the duties of office.

10A Seniority

- (1) The Chief Judge is senior to all other judges of the court.
- (2) The Judge Administrator is senior to all other judges of the court apart from the Chief Judge.
- (3) The remaining judges have seniority in relation to each other according to the dates of their commissions.
- (4) If the commissions of 2 or more judges have the same date, the judges have seniority in relation to each other according to the seniority assigned by their commissions, or, in the absence of an assignment, according to the order of their being sworn in.
- (5) In subsections (3) and (4), a reference to a judge includes a judge who has ceased to be the Judge Administrator.

11 Travelling expenses

A judge shall be entitled to receive the same allowances by way of travelling expenses as are payable to a judge of the Supreme Court.

12 Leave of absence

- (1) The Governor in Council may grant leave of absence to a judge.
- (2) This section does not apply if the *Judges (Pensions and Long Leave) Act 1957* applies to the leave.

13 Judge not to practise as lawyer, etc.

A judge must not—

- (a) practise as a lawyer or notary; or
- (b) directly or indirectly be concerned or interested in the practice of a person mentioned in paragraph (a) or an incorporated legal practice.

14 Retirement of judges

- (1) A judge must retire on reaching 70 years of age.
- (2) Despite subsection (1)—
 - (a) a judge who, before retiring, whether or not because of subsection (1), starts the hearing of a proceeding remains a judge for the purposes of finishing the proceeding; and
 - (b) a retired District Court judge appointed to act as a judge under section 17(3) remains a judge until the judge's appointment ends.

17 Acting judge

- (1) The Governor in Council may, by commission, appoint a person, other than a retired District Court judge, qualified to be appointed a District Court judge to be an acting judge—
 - (a) during the absence on leave, granted by the Governor in Council, of a judge; or
 - (b) if a judge be absent from any other cause or is incompetent or unable to take part in any decision or in

any trial, action or proceeding or to sit at any sittings of a court; or

- (c) if for any reason whatsoever the conduct of the business of a court or the courts in the opinion of the Governor in Council requires such an appointment.
- (2) The Governor in Council may, by commission, appoint any of the following persons to act as a judge for up to 1 year—
 - (a) a person who is, or has been, a judge of a supreme court, district court or county court of another State;
 - (b) a person who is, or has been, a judge of the Federal Court of Australia.
 - (3) The Governor in Council may by commission appoint a retired District Court judge to act as a judge—
 - (a) for a period of not more than 2 years; and
 - (b) on a full-time or sessional basis.
 - (4) The Minister may recommend a retired District Court judge for appointment under subsection (3) only after consultation with the Chief Judge.
 - (5) An appointment under subsection (3) must not extend beyond the day the retired District Court judge reaches 78 years of age.
 - (6) A person appointed to act as a judge under this section—
 - (a) may be appointed more than once; and
 - (b) has, for the period and subject to the conditions stated in the judge's commission, the power and authority necessary to fulfil the duties of a judge.
 - (7) Despite subsection (5), a retired District Court judge who, before the judge's commission ends, starts the hearing of a proceeding remains a judge for the purposes of finishing the proceeding.
 - (8) In this section—

retired District Court judge means a person who—

- (a) has been a judge of the District Court; and
- (b) has not reached 78 years of age.

19 Judge empowered to act throughout the State

Every judge appointed shall be appointed for the whole of the State and shall, under the judge's commission, be empowered to act in any district.

20 Judge to hold court where directed, and to give notice

- (1) The court may be constituted at any place.
- (2) Notice of the days on which the court is appointed to be held shall be put up in a conspicuous place in the court house and in the office of the registrar, and shall be otherwise published as a judge directs.
- (3) When, by reason of the absence of a judge, the court can not be held at the time appointed, the registrar, or, in the event of the registrar's absence, the bailiff, shall adjourn the court to such day as the registrar or the bailiff deems convenient, and shall enter in the minute-book the cause of the adjournment.

21 Adjournment within district

Despite section 20 and any other provision of this Act, when any action, matter or proceeding is pending or is being heard in the District Court in its civil or criminal jurisdiction at any place, the judge to whom the court is assigned may order that the hearing be adjourned from that place to some other place within the same district, if the judge determines that on the balance of convenience the adjournment should be ordered.

24 Certain causes and matters not affected by determination of commission

If at the determination by effluxion of time or other cause of any commission under this Act there shall be any actions or matters, civil or criminal, including any appeal, partly heard

or standing for judgment by or before the holder of such commission, the commission shall only for the purpose of deciding such actions or matters (including the completion of the hearing thereof where necessary) and so far as is necessary for that purpose, remain in force until judgment shall have been delivered therein unless the holder of that commission shall be sooner removed.

25 Application if original judge unable to continue

- (1) This section applies if—
 - (a) a judge (the *original judge*) starts the hearing of a civil or criminal proceeding (including an appeal); and
 - (b) before the proceeding has been determined, the original judge dies or resigns as a judge, or is certified as incapable of sitting.
- (2) For subsection (1), a judge is certified as incapable of sitting if the Chief Judge or the Judge Administrator has issued a certificate (an *incapacity certificate*) stating the judge is incapable of sitting, whether temporarily or otherwise.
- (3) A party to the proceeding may apply to the court for directions as to the determination of the proceeding.
- (4) On its own initiative or on an application under this section, the court may—
 - (a) if there is an incapacity certificate stating the original judge is temporarily incapable of sitting—
 - (i) adjourn the proceeding to enable the original judge to complete the hearing and determination of the proceeding; or
 - (ii) order that the proceeding be heard and determined afresh; or
 - (b) in any other case—
 - (i) order that the proceeding be heard and determined afresh; or

- (ii) make any other order it considers appropriate.
- (5) If the court orders that a proceeding be heard and determined afresh, the court may make an order it considers appropriate to facilitate the hearing and determination.
- (6) Without limiting the orders that may be made under subsection (5), the court may make an order that any order, ruling or finding made by the original judge be set aside.
- (7) The court hearing and determining a proceeding afresh because of an order under this section may make the order it considers appropriate about the costs of the first hearing.

26 Proof of incapacity of judge

When proof of the incapacity of a judge is necessary for a purpose of the last preceding section, the certificate of the Chief Justice that such judge is incapable as specified in the certificate shall be prima facie evidence of that fact.

27 Judge may perform the duties of another judge

- (1) In the case of absence or disability of a judge, or on an emergency, another judge may, at the request in writing of the firstmentioned judge or of the Chief Justice, act for the first mentioned judge, and may exercise all the powers and perform all the duties which that judge might have exercised or performed.
- (2) If a District Court judge is not available in the place where a matter is to be heard urgently, a Supreme Court judge may hear the matter and may exercise all the powers and perform all the duties that a District Court judge might have exercised or performed.

28 Removal of action only in manner provided by this Act

A judgment given by a judge, or an action or matter brought before the judge or depending in the judge's court, shall not be removed by appeal, motion, writ of error or certiorari, or

otherwise into another court, save and except in the manner and according to the provisions of this Act.

28AA Protection for administrative acts

A judge has, in the performance or exercise of an administrative function or power conferred on the judge under an Act, the same protection and immunity as a judge in a judicial proceeding in the court.

Division 2A Powers and responsibilities of Chief Judge

28A Arrangement of business

- (1) The Chief Judge is responsible for the administration of the District Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the District Court.
- (2) Subject to any Act, the Chief Judge has power to do all things necessary or convenient to be done for the administration of the District Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the District Court.

Division 2AA Judge Administrator

28B Appointment of Judge Administrator

- (1) The Governor in Council may, by commission, appoint a judge to be Judge Administrator.

Note—

See the *Constitution of Queensland 2001*, section 59 for the oath or affirmation requirement.

- (2) The appointment of a Judge Administrator may be for a term, of not less than 5 years, stated in the commission.

- (3) A judge may be appointed Judge Administrator either at the time of the person's appointment as a judge or at any time afterwards.
- (4) The Judge Administrator may be reappointed.

28C Acting Judge Administrator

The Governor in Council may, by gazette notice, appoint a judge to act as Judge Administrator during any period, or all periods, when the Judge Administrator is absent from duty or the State, or is, for another reason, unable to perform the duties of office.

28D Judge Administrator continues to be judge

The Judge Administrator continues to be a judge, and may sit as, and exercise any of the powers of, a judge.

28E Judge Administrator continues in office while judge

- (1) Subject to subsection (2), the Judge Administrator holds office as Judge Administrator while the person holds office as a judge.
- (2) A person who is the Judge Administrator vacates the office—
 - (a) if the person is appointed as Chief Magistrate, Chief Judge, or a judge of the Supreme Court; or
 - (b) if the person was appointed as Judge Administrator for a stated term—when the term ends.
- (3) The Judge Administrator may resign office as Judge Administrator without resigning office as a judge.

28F Functions of Judge Administrator

- (1) Subject to section 28A, the Judge Administrator is responsible for the administration of the District Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the District Court.

- (2) The Judge Administrator must consult with the Chief Judge in carrying out the Judge Administrator's functions under subsection (1).
- (3) Subject to this Act and other Acts, the Judge Administrator has power to do all things necessary or convenient to be done for the administration of the District Court and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the District Court including, for example, listing matters for hearing.

Division 3 Prerogative writs

29 When action may be removed

- (1) When any action, matter or proceeding is pending in the District Court in its civil or criminal jurisdiction or when any accused person has been committed for trial to the District Court, the Supreme Court shall, upon application by the Crown, in a criminal matter or proceeding or in any action or civil proceeding in which the Crown is a party and may, if it thinks it desirable, upon the application of any interested person, direct a writ of certiorari to be issued for removing such action, matter or proceeding into the Supreme Court or recommit the accused person for trial to the Supreme Court.

Note—

See the *Judicial Review Act 1991*, section 41.

- (2) The Supreme Court may impose such terms as to payment of costs as it thinks fit and it may make such orders as to remand custody and bail or otherwise as it thinks fit.

30 Rule or order substituted for writ of mandamus to a judge or officer

A writ of mandamus shall not be issued to a judge or an officer of the District Court requiring the judge or officer to do any act relating to the duties of his or her office, but a party requiring the act to be done may apply to the Supreme Court,

upon an affidavit of the facts, for a rule or summons calling upon the judge or officer of the District Court, and also the party to be affected by the act, to show cause why the act should not be done, and if after the service of the rule or summons good cause is not shown, the Supreme Court may, by rule or order, direct the act to be done, and the judge or officer of the District Court shall, upon being served with the rule or order, obey it under pain of attachment, and in any event the court may make such order with respect to costs as to the court seems fit.

31 Judge not to be served with notice of application for prohibition

- (1) When an application is made to the Supreme Court for a writ of prohibition addressed to the District Court, the judge of the District Court shall not be served with notice, and shall not, except by the order of a judge of the Supreme Court, be required to appear or be heard on the application, and shall not be liable to any order for the payment of the costs thereof, but the application shall be proceeded with and heard in the same manner in all respects as a case of an appeal duly brought from a judgment of a judge.
- (2) Notice of the application shall be given to or served upon the same parties as in the case of an order made or refused by a judge in a matter within the judge's jurisdiction.

32 Rule or summons to show cause why a writ of certiorari or prohibition should not be issued to be a stay of proceedings

The granting by the Supreme Court of a rule or summons to show cause why a writ of certiorari or of prohibition should not be issued to the District Court, shall, if the Supreme Court so directs, operate as a stay of proceedings in the action to which the same relates until the determination of the rule or summons, or until such court otherwise orders, and the judge of the District Court shall, from time to time, adjourn the

hearing of the action to such day as the judge thinks fit, until the determination or until such order is made.

33 Notice of rule or summons to be given to registrar and parties

If a copy of the rule or summons is not served by the party who obtained it on the opposite party, and on the registrar of the District Court, at least 2 clear days before the day fixed for the hearing of the action, the judge of the District Court may order the party who obtained the rule or summons to pay the costs of the day, or so much thereof as the judge thinks fit, unless the Supreme Court has made a different order respecting such costs.

34 Notice of writ of certiorari or prohibition obtained ex parte to be given to registrar and parties

When a writ of certiorari or of prohibition addressed to the District Court is granted by the Supreme Court on an ex parte application, and the party who obtained it does not lodge it with the registrar, and give notice to the opposite party that it has been issued, at least 2 clear days before the day fixed for hearing the action to which it relates, the judge of the District Court may order the party who obtained the writ to pay all the costs of the day, or so much thereof as the judge thinks fit, unless the Supreme Court has made a different order respecting such costs.

Division 4 Registry

35 Registry

- (1) There is to be a District Court Registry.
- (2) The District Court Registry is to have an office at each place at which the District Court is to be held.

35A Process returnable in office where issued but effective throughout State

- (1) A process issued out of any office of the District Court Registry is returnable in that office.
- (2) However, each process has effect, and may be enforced, at any place within the State.

35B Control

The District Court Registry is under the control of the principal registrar.

Division 5 Officers

36 Principal registrar, other registrars and officers

- (1) The Governor in Council may appoint a principal registrar.
- (2) The chief executive may appoint registrars (other than the principal registrar) and other officers the chief executive considers appropriate.
- (3) A person appointed under this section is employed under the *Public Service Act 2008*.

36A Delegation by registrar

- (1) A registrar may delegate the registrar's functions to an appropriately qualified person who is a public service employee in the District Court Registry.

- (2) In this section—

appropriately qualified, for a public service employee to whom a function may be delegated, includes having the qualifications, experience or standing appropriate for the function.

Example of standing—

a person's classification level in the public service

functions includes powers.

36B Directions

The principal registrar may give directions to the registrars and other officers employed in any office of the District Court Registry.

36C Supreme Court and Magistrates Court officers

- (1) This section applies if the District Court is to sit at a place where an office of the District Court Registry does not exist.
- (2) If a regional office or a district office of the Supreme Court Registry exists at the place, that office is taken to be an office of the District Court Registry at the place and the registrar, bailiff and other officers of the Supreme Court at the place are taken to be the corresponding officers of the District Court at the place.

Example—

The registrar of the Supreme Court at the place is taken to be the registrar of the District Court at the place.

- (3) If subsection (2) does not apply and a Magistrates Court Registry exists at the place, that registry is taken to be an office of the District Court Registry at the place and the registrar, bailiff and other officers of the Magistrates Court at the place are taken to be the corresponding officers of the District Court at the place.

Example—

A bailiff of the Magistrates Court at the place is taken to be a bailiff of the District Court at the place.

- (4) Without limiting subsections (2) and (3), an officer taken to be a corresponding officer of the District Court at a place has the functions, powers and jurisdiction of the officer of the District Court.

36D Associates

- (1) The Chief Judge may appoint a person nominated by a judge as an associate to the judge.
- (2) An associate is appointed under this Act and not under the *Public Service Act 2008*.
- (3) The Governor in Council is to decide the salary and conditions of appointment for an associate appointed under subsection (1).

37 Duties of registrar

A registrar shall sign and issue summonses and warrants and register the records and judgments, and keep minutes of the proceedings of the court, and shall take charge of and keep an account of the court fees and fines payable or paid into court, and of the moneys paid into and out of court, and shall enter an account of the fees, fines and moneys, in a ledger kept by the registrar for that purpose, and shall, when required, submit the registrar's accounts to be audited by the auditor-general or the registrar's officers.

39 Minutes of proceedings to be kept

- (1) A registrar shall cause a note of the complaints, summonses, judgments, executions and returns thereto, and of the fines and of all other proceedings of the court, to be fairly entered from time to time in a register maintained by the court and kept at the office of the court.

Evidence

- (2) In any action or other proceeding the books, and any entries therein, or copies of the books or entries under the seal of the court and purporting to be signed and certified by the registrar, shall upon production be prima facie evidence of the contents of the books, or of the entries, and of the proceedings referred to in them, and of the regularity of the proceedings.

40 When a clerk of the court is registrar, the clerk's successor or deputy shall be registrar

- (1) When a clerk of the court is appointed registrar of the District Court held at the place where the person is clerk, the successor in office of the clerk, or a deputy, or a person performing the duties for the time being, shall exercise, and have the rights and powers, and shall perform the duties of a registrar of the District Court while the person is performing the duties of such clerk.
- (2) However, subsection (1) does not limit the chief executive's power under section 36(2).
- (3) In this section—
clerk of the court has the meaning assigned to that expression by the *Justices Act 1886*.

41 Appointment of bailiffs

- (1) The chief executive may appoint bailiffs.
- (2) A person appointed under this section is employed under the *Public Service Act 2008*.

42 Power of bailiffs

- (1) A bailiff is an officer of the sheriff.
- (2) A bailiff is appointed for the State.
- (3) The sheriff, or a deputy sheriff, may delegate any of the sheriff's functions, or deputy sheriff's functions, to a bailiff.
- (4) Subject to the terms of the delegation, a bailiff may perform a function throughout the State.
- (5) In this section—
functions includes powers.
perform, a function, includes exercise a power.

43 Functions of bailiffs

The functions of a bailiff include the following—

- (a) acting as an orderly during sittings of the court;
- (b) serving documents for a proceeding in the court;
- (c) enforcing enforcement warrants of the court.

44 Bailiff not required to take out auctioneer's licence

A bailiff or other officer duly authorised to enforce an enforcement warrant may sell land or goods without taking out an auctioneer's licence.

45 Remuneration of bailiffs

- (1) A bailiff shall be paid a salary on account of the bailiff's general duties, and shall also be entitled to receive and retain for the bailiff's own use the fees prescribed as bailiffs' fees, unless a judge in any case otherwise orders.
- (2) The bailiff shall, out of such fees, provide for the performance of the duties for which the fees are allowed.
- (3) The fees received for enforcing an enforcement warrant must be paid by the registrar to the bailiff on the issue of the enforcement warrant.

46 Bailiff answerable for escape and neglect to levy execution

- (1) If a bailiff who is directed to levy execution loses by neglect, connivance, or omission, the opportunity of levying the execution, a judge may, upon complaint of the party aggrieved, inquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of the necessary parties in the same manner in which the attendance of witnesses in an action may be enforced, and may order the bailiff to pay such damages as it appears that the plaintiff has sustained, not exceeding in any case the sum of money for

which the execution was issued, and the bailiff shall be liable to pay the same.

- (2) Upon demand made, and on the bailiff's refusal to pay and satisfy the damages, payment may be enforced in the manner provided by this Act.

47 Bailiff's protection from liability

- (1) A proceeding in relation to a bailiff acting in that capacity must be started against 'The Sheriff of Queensland' and not against the bailiff.
- (2) If a money order is made against The Sheriff of Queensland in a proceeding mentioned in subsection (1)—
 - (a) the money order debt must be paid by the Treasurer out of the consolidated fund; and
 - (b) the State may recover the money order debt from the relevant bailiff unless the liability resulting in the money order was for an act done, or omission made, honestly and without negligence when acting as a bailiff.
- (3) In this section—

money order means an order, or part of an order, for the payment of money, including an amount for damages, whether or not the amount is or includes an amount for interest or costs.

money order debt means the amount of money payable under a money order.

Division 6 General provisions about officers

50 Remedies against and penalties on bailiffs and other officers for misconduct

- (1) If a registrar, bailiff or other officer, acting under, or under colour or pretence, of the process of the court is charged with extortion or misconduct, or with not duly paying or

accounting for money levied by the officer under the authority of this Act, a judge may inquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of the necessary parties in the manner provided by this Act for enforcing the attendance of witnesses, and may make such order for the repayment of the money extorted, or for the due payment of the money so levied, and for the payment of such damages and costs as the judge thinks just.

- (2) The judge may also impose a fine upon the registrar, bailiff or other officer not exceeding \$20 for each offence, and, in default of payment of the money so ordered to be paid, payment may be enforced in the manner provided by this Act for enforcing a judgment.

51 Indemnity to persons acting under this Act

If an action is brought against a person for anything done under a warrant issued in pursuance of this Act, the production of the warrant under the seal of the court in the action shall be deemed sufficient proof of the authority of the court previous to the issuing of the warrant, and if the plaintiff in the action has a verdict given against the plaintiff, is nonsuited, or discontinues the action, the defendant shall be allowed costs.

Division 7 Court appearance

52 Court appearance

- (1) In a proceeding, a party may appear in person or by—
 - (a) a lawyer; or
 - (b) with the leave of the court, another person.
- (2) In this section—

party includes a person served with notice of or attending a proceeding although not named in the record.

Part 4 Criminal jurisdiction and procedure

Division 1 Criminal jurisdiction

60 Criminal jurisdiction

The District Court has jurisdiction to inquire of, hear, and determine all indictable offences, wheresoever committed, save as hereinafter excepted.

61 Criminal jurisdiction if maximum penalty more than 20 years

- (1) The District Court does not generally have jurisdiction to try a person charged with an indictable offence if the maximum penalty for the offence is more than 20 years.
- (2) However, the District Court has jurisdiction to try a person charged with committing or counselling or procuring the commission of any of the following offences even if the maximum penalty for the offence is more than 20 years—
 - (a) an offence against the *Corrective Services Act 2006*, section 122 in which a prisoner wilfully and unlawfully damages or destroys, or attempts to damage or destroy, property that is part of a corrective services facility during a riot or mutiny and the security of the facility is endangered by the act;
 - (b) an offence under the Criminal Code, section 61, 213, 215, 216, 219, 222, 229B, 315, 316, 317, 318, 319, 349, 352, 411, 412, 415, 419, 421, 461, 469 or 469A;
 - (c) an offence under the *Drugs Misuse Act 1986*, section 5 if the dangerous drug the subject of the charge is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2.

- (3) Subsection (2) applies to an offence mentioned in subsection (2)(b) even if 1 or more circumstances of aggravation under the Criminal Code are alleged to exist in relation to the offence.
- (4) Also, subsection (5) applies in relation to a person charged with a prescribed offence if the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q is alleged to exist in relation to the offence.
- (5) For applying subsection (1) to the person, the mandatory component of the sentence that must be imposed for the prescribed offence under the *Penalties and Sentences Act 1992*, section 161R(2) must be disregarded.
- (6) In this section—
prescribed offence see the *Penalties and Sentences Act 1992*, section 161N.

61A No general criminal jurisdiction over a child

- (1) The District Court does not have jurisdiction to try a child charged with an indictable offence, unless otherwise expressly provided by an Act.
- (2) Subject to this division, the District Court has jurisdiction—
 - (a) to try a child on an indictment in which the child is also charged as an adult with an offence; or
 - (b) to try a child in proceedings removed to the court under the *Youth Justice Act 1992*, part 6, division 8, subdivision 2; or
 - (c) to sentence a child for an offence if the child is appearing before it also for sentence as an adult on a charge of an offence.
- (3) In exercising jurisdiction to sentence a child under subsection (2), the court may also sentence the child under the Criminal Code, section 651.
- (4) In this section—

adult means an adult within the meaning of the *Youth Justice Act 1992*.

child means a child within the meaning of the *Youth Justice Act 1992*.

Division 2 Procedure

63 Change of venue

- (1) When an accused person is committed for trial to the District Court in a place other than the district in which the offence is alleged to have been committed, a Supreme Court judge or a District Court judge may order that the trial be held in that district and may make all such orders for the remand and custody of the accused person, and for the enlargement of the accused person's bail, as may be necessary.
- (2) In any other case the venue may be changed by order of a judge of the Supreme Court, or of the District Court, who may make the like orders for the purposes aforesaid.
- (3) The District Court judge may, at any stage of a criminal trial pending in the judge's court, order that the trial take place at another place, subject to such conditions as the judge thinks fit, and may remand the accused in custody or on bail to that court.

64 Change of trial from Supreme Court to District Court

- (1) When a person has been committed for trial or sentence to the Supreme Court or has been indicted in any such court for an offence triable in the District Court any District Court judge if so requested by the Chief Justice may try or sentence such person and for that purpose shall have the same powers and jurisdiction as if the committal had been to or the indictment had been presented in the District Court.

- (2) The request of the Chief Justice may be made in respect of a particular case or cases or in respect of specified categories of cases.
- (3) When a person has been committed for trial to the District Court or has been indicted in the District Court any judge of the Supreme Court shall have the same powers and jurisdiction to try such person as if the committal had been to or the indictment presented in the Supreme Court.

65 Jury in criminal trials

- (1) All indictable offences prosecuted in the court must be tried by a judge and jury.
- (2) The *Jury Act 1995* states the law about the following—
 - (a) the obligation to perform jury service;
 - (b) organisation of juries generally;
 - (c) the selection of a jury;
 - (d) arrangements for a jury during a trial;
 - (e) juror's remuneration and allowances.
- (3) Subsection (1) is subject to an Act that allows or requires an indictable offence prosecuted in the court to be tried in another way.

Part 5 Civil jurisdiction

Division 1 Civil jurisdiction

68 Civil jurisdiction

- (1) The District Court has jurisdiction to hear and determine—

- (a) all personal actions, where the amount, value or damage sought to be recovered does not exceed the monetary limit including the following—
 - (i) any equitable claim or demand for recovery of money or damages, whether liquidated or unliquidated;
 - (ii) any claim for detention of chattels;
 - (iii) any claim for rent or mesne profits;
 - (iv) any claim for any debt, damages or compensation arising under any Act; and
- (b) the following actions and matters—
 - (i) for enforcing by delivery of possession any mortgage, encumbrance, charge or lien, where the amount owing in respect thereof does not exceed the monetary limit;
 - (ii) for relief against fraud or mistake, where the damage sustained or the estate or fund in respect of which relief is sought does not exceed in amount or value the monetary limit;
 - (iii) for specific performance of an agreement for the sale or other disposition of land or an interest in land or of any other property, where the value of the land or interest or property does not exceed the monetary limit, or in lieu of or in addition to specific performance, damages not exceeding the monetary limit;
 - (iv) for rectifying, delivering up or cancelling any agreement, where the amount in dispute or the value of the property affected does not exceed the monetary limit;
 - (v) for a declaration of partnership or dissolution or winding up of, or otherwise relating to, any partnership, where the property of the partnership does not exceed in amount or value the monetary limit;

- (vi) for the sale or partition or division of property pursuant to the *Property Law Act 1974*, section 38 or 41, where the property does not exceed in amount or value the monetary limit;
- (vii) for the administration of the estate of a deceased person, where the estate does not exceed in amount or value the monetary limit;
- (viii) for the execution of a trust or a declaration that a trust subsists, where the estate or fund subject or alleged to be subject to the trust does not exceed in amount or value the monetary limit;
- (ix) relating to the custody, maintenance or advancement of an infant including the appointment of a guardian to the property or person of an infant but not so as to authorise any order under this provision affecting assets or property of an infant exceeding in amount or value the monetary limit;
- (x) for family provision pursuant to the *Succession Act 1981*, sections 40 to 43, but so that any provision resulting from an order made by the court shall not exceed in amount or value the monetary limit;
- (xi) to recover possession of any land, where the value of the land does not exceed the monetary limit;
- (xii) to restrain, whether by injunction or otherwise, any actual, threatened or apprehended trespass or nuisance to land, where the value of that land does not exceed the monetary limit, or, in lieu of or in addition to such an injunction, damages not exceeding the monetary limit;
- (xiii) for the determination of any question of construction arising under a deed, will or other written instrument, and for a declaration of the rights of the persons interested where the sum or the property in respect of which the declaration is sought does not exceed in amount or value the monetary limit;

(xiv) for the appointment under the *Public Trustee Act 1978*, section 104 of the public trustee as administrator of any unclaimed property, where the gross value of the property does not exceed in amount or value the monetary limit.

(2) In this section—

monetary limit means \$750,000.

(3) For the purpose of determining whether or not the District Court has jurisdiction under this part—

(a) in the case of proceedings falling within subsection (1)(a)(ii)—the amount claimed for detention of goods is the amount claimed for the value of the goods together with the amount (if any) claimed for damages for the detention of the goods; and

(b) the value of land shall be the most recent valuation, current at the time of instituting the proceedings, made by the valuer-general under the *Land Valuation Act 2010*, or, if there is no such valuation in respect of the land, the current market value at that time of the land exclusive of improvements thereto; and

(c) in any case where it is necessary to determine whether the monetary limit is exceeded—no account shall be taken of any amount awarded or liable to be awarded in the action by way of interest on any amount.

(4) Where any question arises as to the amount or value for the purpose of jurisdiction under this part the decision of the District Court shall be conclusive as to that matter.

69 Powers of District Court

(1) Subject to this Act and to the rules of court, the District Court has, for the purposes of exercising the jurisdiction conferred by this part, all the powers and authorities of the Supreme Court, including the powers and authorities conferred on the Supreme Court by an Act, and may in any proceeding in like manner and to like extent—

- (a) grant such relief or remedy; and
- (b) make any order, including an order for attachment or committal in consequence of disobedience to an order; and
- (c) give effect to every ground of defence or matter of set-off whether equitable or legal;

as may and ought to be done in like cases by a judge of the Supreme Court.

Example of power conferred on the Supreme Court by an Act—

the power of the Supreme Court under the *Land Title Act 1994*, section 127 (Removing a caveat) to order that a caveat be removed

- (2) Without affecting the generality of subsection (1), the District Court shall, in any proceedings in which jurisdiction is conferred under this part, have power to grant relief—
 - (a) by way of a declaration of rights of the parties; and
 - (b) by way of injunction, whether interim, interlocutory or final, in the proceedings; and
 - (c) by staying the proceedings or part thereof; and
 - (d) by appointing a receiver including an interim receiver.
- (3) To remove any doubt, it is declared that the District Court may grant a Mareva injunction or Anton Piller order in proceedings in which jurisdiction is conferred under this part.
- (4) The appropriate officer of the District Court shall, in addition to any duties otherwise imposed on the officer, discharge—
 - (a) any duty which an officer of the Supreme Court would be required under the practice of the Supreme Court to discharge in the like circumstances; and
 - (b) any duty imposed on the officer by any order of the court.
- (5) For the purposes of subsection (4) the appropriate officer of the District Court shall have the powers of the relevant officer of the Supreme Court.

70 Relief against proceedings to recover land

In relation to proceedings instituted or threatened to be instituted pursuant to section 68(1)(b)(xi), the District Court may exercise all or any of the powers and authorities of the Supreme Court under the *Property Law Act 1974*, sections 124, 125 and 127.

71 Reference to arbitration

The judge may in any action or matter, at any time before judgment, order the action or matter or any question arising thereon, with or without other matters within the jurisdiction of the court in dispute between the parties, to be referred to arbitration, to such person or persons and in such manner and on such terms as the judge thinks reasonable.

72 Consent jurisdiction

- (1) If both parties agree, by a memorandum signed by them or by their lawyers, that the District Court sitting in a particular district shall have jurisdiction to try any action which might be brought or any counterclaim which might be made in the Supreme Court, the District Court sitting at that place shall have jurisdiction to try the action or counterclaim, or both.
- (2) The memorandum shall state that the parties signing it know that the action or as the occasion shall require, the counterclaim, is not within the jurisdiction of the District Court without such consent, and shall be filed with a registrar in the case of an action at the time when the plaint is entered and in the case of a counterclaim, at the time the defence and counterclaim is filed or at such later time as a judge on application made in that behalf, may allow.

73 Splitting demands—abandonment of excess

A plaintiff shall not divide a cause of action for the purpose of bringing 2 or more actions in the District Court, but a plaintiff having a cause of action for more than the amount for which a

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plaint might be entered under this Act may abandon the excess (which abandonment shall be stated in the plaint), and thereupon the plaintiff may, on proving the plaintiff's case, recover to an amount not exceeding the limit specified by this Act and the judgment of the court shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment of the court shall be made accordingly.

74 Splitting debt by giving bills

If a defendant has given 2 or more bills of exchange, promissory notes, bonds or other securities, for a debt or sum originally exceeding the amount specified in section 68(2) the plaintiff may sue separately upon each of the securities not exceeding such amount as forming a distinct cause of action.

Division 2 Trial by jury

75 When a jury may be summoned

- (1) Any party may require a jury to be summoned in any of the following cases—
 - (a) in any action or matter in which the amount claimed exceeds the Magistrates Courts jurisdictional limit;
 - (b) in any action for the recovery of possession of land of which the value exceeds the Magistrates Courts jurisdictional limit;
 - (c) in proceedings in interpleader in which the amount claimed or the value of the goods in question exceeds the Magistrates Courts jurisdictional limit;
 - (d) in an action or matter which before the commencement of the *District Courts Act and Other Acts Amendment Act 1989* might have been commenced only in the Supreme Court unless the parties agreed to it being heard and determined in another jurisdiction;

unless the action or matter is one which if brought in the Supreme Court would be required to be heard and determined by a judge without a jury.

(2) In this section—

Magistrates Courts jurisdictional limit means the amount applying under the *Magistrates Courts Act 1921*, section 4(a), as the limit of the amount claimed in a personal action.

Division 3 Evidence

76 Rules of evidence

The rules of evidence observed in the Supreme Court shall be applicable to and observed upon the trial of questions of fact in the District Court.

Division 4 Commercial and other lists

77 Court may maintain lists

In exercising its power to control its own process, the court may maintain lists of particular proceedings by reference to subject matter, including a commercial list.

78 No appeal from entry on a list

There is no appeal from an order entering a proceeding on a list of particular proceedings.

79 Commercial list proceeding

- (1) This section applies to a proceeding on the commercial list.
- (2) If the parties to the proceeding agree, the judgment of the court is final and not subject to appeal.

- (3) The court may order that the proceeding be tried without a jury.

Part 6 Recovery of possession of land

88 Warrant empowers bailiff to enter on land

A warrant to a bailiff to give possession of land empowers the bailiff named in the warrant to enter on the land with such assistance as the bailiff determines and to give possession accordingly.

Part 7A Use of video link facilities

110A Purpose of part

The purpose of this part is to provide for the use of video link facilities for certain proceedings before the District Court.

110B Definitions for part

In this part—

detainee means—

- (a) for section 110C(1)—someone who is in custody at a correctional institution; and
- (b) otherwise—someone who is—
 - (i) in custody at a correctional institution; and
 - (ii) a party to a proceeding.

proceeding for a provision of this part, other than section 110C(1), means a proceeding to which section 110C(1) applies.

110C Use of video link facilities in proceedings

- (1) This section applies to a proceeding if—
 - (a) a detainee is entitled or required to be present before the District Court for the proceeding; and
 - (b) the proceeding is—
 - (i) about an offence with which the detainee is charged, including a proceeding for the detainee's bail or remand; or
 - (ii) an appeal under the *Justices Act 1886*, section 222 in relation to an offence of which the detainee has been convicted (*appeal proceeding*); and
 - (c) the proceeding is not a proceeding for the sentencing of the detainee; and

Note—

See the *Penalties and Sentences Act 1992*, section 15A in relation to the use of audiovisual link or audio link facilities for a sentencing proceeding.

- (d) video link facilities are available linking the correctional institution where the detainee is in custody and the court.
- (2) A proceeding for the detainee's bail or remand or an appeal proceeding must be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.
- (3) In a proceeding, other than a proceeding for the detainee's bail or remand or an appeal proceeding, the court may order the proceeding be conducted using video link facilities only if all parties consent.
- (4) The video link facilities may only be used to link the proceeding before the court at the place the court is sitting

[s 110D]

with the detainee, or the detainee and the detainee's representative, at the correctional institution.

110D Detainee taken to be before the court

- (1) A person present at the part of the correctional institution used for the conduct of a proceeding, when the proceeding is being conducted, is taken to be in the presence of the District Court for all purposes.
- (2) The part of the correctional institution used for the proceeding is taken to be part of the court for the conduct of the proceeding.
- (3) Any entitlement of, or requirement for, the detainee under any law or court order to be present before the court in the proceeding is taken to be satisfied by the detainee's use of video link facilities for the proceeding.

110E Way video link facilities must be operated

- (1) Video link facilities, when used for a proceeding, are to be operated in a way that ensures two-way audio and visual communication between the detainee and the District Court.
- (2) If video link facilities fail during a proceeding, the court may adjourn the proceeding or make another appropriate order, as if the detainee were still in the presence of the court.

110F Facilities for private communication

- (1) The District Court and the correctional institution must make facilities available for private communication between the detainee and the detainee's representative in a proceeding if the representative is at the place where the court is sitting.
- (2) A communication between the detainee and the detainee's representative is as confidential and as inadmissible in any proceeding as it would be if it took place between the detainee and the detainee's representative while in each other's presence.

- (3) Subsection (2) does not limit any other protection applying to the communication.

110G Variation or revocation of order

The District Court may, at any time, vary or revoke an order made under section 110C.

Part 8 Appeals to the District Court

111 Definitions for pt 8

In this part—

appeal includes a special case or other case stated for the opinion of the District Court.

central district means the central district of the Supreme Court.

decision includes a conviction, determination, judgment and order recorded or made by a court.

far northern district means the far northern district of the Supreme Court.

northern district means the northern district of the Supreme Court.

party includes a prospective party to a proposed appeal.

112 No appeal lies from Magistrates Court to Supreme Court

An appeal may not be made from a Magistrates Court to the Supreme Court.

113 Power of District Court on appeal from Magistrates Court

The District Court has, for an appeal from a Magistrates Court, the same powers as the Court of Appeal has to hear an appeal.

114 Other appeals

- (1) This section applies if, under an Act, provision is made for an appeal—
 - (a) to a court of general or quarter sessions; or
 - (b) to a judge of the Supreme Court on circuit; or
 - (c) from a decision of justices and no other court of appeal is mentioned.
- (2) The appeal lies to the District Court.

117 Transfer of appeal hearings

- (1) A judge may order that an appeal is to be transferred to the District Court at another place, if it appears to the judge—
 - (a) that it is in the interests of justice that the appeal be heard at the other place; or
 - (b) that the appeal may be more conveniently heard at the other place and no party to the proceeding objects.
- (2) The order may be made on the application of a party to the proceeding, or, if the judge is the judge hearing the appeal, on the judge's own initiative.
- (3) The officer that has the appeal record must give the record and all appropriate exhibits to the appropriate officer at the place where the appeal is to be heard.
- (4) In this section—

heard includes—

 - (a) heard and decided; and
 - (b) continued and decided.

Part 9 Appeals from the District Court to Court of Appeal

118 Appeal to the Court of Appeal in certain cases

- (1) This section—
 - (a) does not apply to an appeal from a judgment of the District Court in the exercise of its criminal jurisdiction under part 4; but
 - (b) does apply to an appeal from other judgments of the District Court in the exercise of its criminal jurisdiction, including on an appeal brought before the court under the *Justices Act 1886*, section 222.
- (2) A party who is dissatisfied with a final or interlocutory judgment of the District Court in its original jurisdiction may appeal to the Court of Appeal if the judgment—
 - (a) is given for an amount equal to or more than the Magistrates Courts jurisdictional limit; or
 - (b) relates to a claim for, or relating to, property that has a value equal to or more than the Magistrates Courts jurisdictional limit.
- (3) Subject to sections 118A and 118B, a party who is dissatisfied with any other judgment of the District Court, whether in the court's original or appellate jurisdiction, may appeal to the Court of Appeal with the leave of that court.
- (4) In deciding whether there is a right of appeal under this section, the Court of Appeal may—
 - (a) inform itself in any way it considers appropriate, including by reference to the appeal record; and
 - (b) decide the question summarily without hearing evidence.
- (5) If it is reasonably arguable that a right of appeal under this section exists, the Court of Appeal may treat that circumstance as a ground for granting leave to appeal.

[s 118A]

- (6) If the Court of Appeal grants leave under subsection (3), it may grant it on the conditions it considers appropriate.
- (7) A single judge of the Court of Appeal may—
 - (a) grant (with or without condition) or refuse leave mentioned in subsection (3); or
 - (b) make the decision mentioned in subsection (4)(b).
- (8) An appeal from the District Court in its original jurisdiction is by way of rehearing.
- (9) In this section—

final judgment, of the District Court, includes a judgment that grants leave to enter a judgment mentioned in subsection (2).

Magistrates Courts jurisdictional limit means the amount of the jurisdictional limit of Magistrates Courts for personal actions stated in the *Magistrates Courts Act 1921*, section 4(a).

118A Leave of District Court required to appeal from consent order

An appeal lies to the Court of Appeal from a judgment or order of the District Court given or made by consent only by leave of the judge who gave the judgment or made the order, or, if that judge is not available, another District Court judge.

118B Leave of District Court required to appeal in relation to costs

- (1) An appeal only in relation to costs lies to the Court of Appeal from a judgment or order of the District Court only by leave of the judge who gave the judgment or made the order, or, if that judge is not available, another District Court judge.
- (2) However, if, after an appeal to the Court of Appeal is properly started, the appeal becomes an appeal only in relation to the costs of the original proceeding—
 - (a) subsection (1) does not apply; and

- (b) the appeal may be heard and determined only by leave of the Court of Appeal.

119 Jurisdiction of Court of Appeal

- (1) On the hearing of an appeal the Court of Appeal shall have power to draw inferences of fact from facts found by the judge or jury, or from admitted facts or facts not disputed provided that where the appeal is not by way of rehearing such inferences shall not be inconsistent with the findings of the judge or jury.
- (2) On the hearing of any appeal the Court of Appeal—
 - (a) may order a new trial on such terms as the court thinks just; and
 - (b) may order judgment to be entered for any party, or may make any other order, on such terms as the Court of Appeal thinks proper, to ensure the determination on the merits of the real questions in controversy between the parties; and
 - (c) may make such order with respect to the costs of the appeal as it thinks proper;and every such order shall be final.

120 Parties may agree not to appeal

An appeal shall not lie from the decision of a judge if, before the decision is pronounced, both parties agree, in writing signed by themselves or their lawyers or agents, that the decision of the judge shall be final.

122 Special case

A Magistrates Court may not state in the form of a special case for the opinion of the Supreme Court any question of law arising in any case, but in lieu thereof may state in the form of a special case for the opinion of the District Court any such question of law, and the District Court shall have the same

powers, authorities and duties as the Supreme Court had in respect of such a special case prior to the coming into force of the *District Courts Act Amendment Act 1960*.

Part 10 Enforcement of judgments

123 Action on judgment

An action may be brought in the Supreme Court upon a judgment in the District Court, but the plaintiff shall not recover any costs in such an action up to judgment unless the defendant appears and unsuccessfully defends the action.

124 Judgment to survive death

A judgment obtained by a plaintiff but not satisfied previous to the plaintiff's death and also all causes of action shall survive to the plaintiff's personal representative who may issue out execution in the representative's own name in the same way in which the plaintiff might have done.

Part 11 General provisions

Division 1 Court

125 Practice directions

- (1) The Chief Judge may make practice directions for the District Court.
- (2) Subsection (1) does not affect any inherent or other power to make practice directions.

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- (3) To remove any doubt, it is declared that a practice direction is not subordinate legislation.

126 Business of court

- (1) The business of the court—
- (a) is taken to be conducted in court wherever it is conducted; and
 - (b) is to be conducted in open court.
- (2) However, subject to any Act, the court may, if the public interest or the interests of justice require, by order limit the extent to which the business of the court is open to the public.

Division 2 Fees and fines

128 Fees and fines to be paid to the consolidated fund

All fees payable in respect of any proceedings to a registrar, except such of them as a bailiff is entitled to receive and retain for the bailiff's own use, and all fines imposed under this Act and received by a registrar, shall be paid into the consolidated fund.

Division 3 Offences

129 Contempt

- (1) A person is in contempt of the District Court if the person—
- (a) without lawful excuse, fails to comply with an order of the court (other than an order mentioned in paragraph (e)), or an undertaking given to the court; or
 - (b) wilfully insults a judge or juror, or a registrar, bailiff, or other court officer during the person's sitting or attendance in court, or in going to or returning from the court; or

- (c) wilfully interrupts the proceedings of the court or otherwise misbehaves himself or herself in court; or
 - (d) unlawfully obstructs or assaults someone in attendance in court; or
 - (e) without lawful excuse, disobeys a lawful order or direction of the court at the hearing of any proceeding; or
 - (f) commits any other contempt of the court.
- (2) A District Court judge has the same power to punish for a contempt mentioned in subsection (1) as a Supreme Court judge would have if the contempt were a contempt of the Supreme Court.
- (3) If the contempt is in the face of the court, a bailiff or other court officer acting under the court's order may, using necessary and reasonable help and force, take the person committing the contempt into custody and detain the person until the court rises.
- (4) Before the court rises, the court may—
- (a) ask the person to explain why the person should not be punished; or
 - (b) adjourn the matter to be dealt with on a stated date.
- (5) If the court acts under subsection (4)(a), the court may deal with the person immediately.

Division 4 General

130 Executors

An executor or administrator may sue and be sued in the District Court in the same manner in which a person may sue or be sued in the person's own right, and in any such case judgment may be given and execution issued against the same persons against whom, and in the same manner in which,

judgment would be given or execution issued in the Supreme Court.

130A Annual report

- (1) As soon as practicable after the end of each financial year, but within 4 months after the end of the financial year, the Chief Judge must prepare and give to the Minister a written report about the operation of the District Court during the year.
- (2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

130B Finance

The court is part of the department for the purposes of the *Financial Accountability Act 2009*.

131 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may make provision for the control and management of the precincts of the District Court other than precincts that are Supreme Court precincts under the *Supreme Court of Queensland Act 1991*.

Part 12 Transitional provisions

132 References to District Courts

- (1) In another Act, a reference to a District Court is a reference to a District Court within the meaning of this Act.
- (2) For an Act passed before the commencement of this Act, subsection (1) has effect even though the reference is

expressed to relate to a District Court within the meaning of another Act.

133 References to District Courts Act 1958

In an Act or document, a reference to the *District Courts Act 1958* may, if the context permits, be taken to be a reference to this Act.

134 References to District Courts (Venue of Appeals) Act 1988

In an Act or document, a reference to the *District Courts (Venue of Appeals) Act 1988* may, if the context permits, be taken to be a reference to this Act.

135 Transitional references to chairperson etc.

A reference in another Act to the chairperson of District Courts or a deputy chairperson of District Courts is, for anything done, or proposed to be done, after 3 June 1993, taken to be a reference to the Chief Judge of District Courts or a senior judge of District Courts.

139 Transitional—establishment of the District Court

- (1) On the commencement of part 2, division 1—
 - (a) the District Courts in existence on the commencement (the *previous District Courts*) are amalgamated into the District Court; and
 - (b) the places at which the previous District Courts were held are the places at which the District Court is to be held; and
 - (c) the district assigned to a previous District Court held at a place is the district for the District Court to be held at the place; and

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- (d) any jurisdiction or power of the previous District Courts or a judge of a previous District Court or the previous District Courts becomes jurisdiction or power of the District Court or a judge of the District Court; and
 - (e) anything else done or existing in relation to a previous District Court continues, and is taken to be done or existing in relation to the District Court or the corresponding district of the District Court; and
 - (f) a proceeding pending in a previous District Court is to be continued in the District Court at the place at which it would have continued if part 2, division 1 had not been enacted; and
 - (g) each judge of a previous District Court or the previous District Courts becomes a judge of the District Court; and
 - (h) the Chief Judge of District Courts becomes the Chief Judge of the District Court.
- (2) Part 2, division 1 does not affect—
- (a) any appointment, subject to the name changes mentioned in subsection (1)(g) and (h); or
 - (b) the seniority of a judge; or
 - (c) any principle or rule of law or equity; or
 - (d) any right, privilege or liability.
- (3) In an Act or document, if the context permits—
- (a) a reference to the *District Courts Act 1967* is taken to be a reference to the *District Court Act 1967*; and
 - (b) a reference to the *District Courts Rules 1968* is taken to be a reference to the *District Court Rules 1968*; and
 - (c) a reference to a District Court or the District Courts is taken to be a reference to the District Court; and
 - (d) a reference to a District Court held at a place is a reference to the District Court held at the place; and

- (e) a reference to a judge of a District Court or to a judge of District Courts is taken to be a reference to a judge of the District Court; and
- (f) a reference to the Chief Judge of District Courts is a reference to the Chief Judge of the District Court.

140 Transitional—change of name to District Court of Queensland

- (1) To remove doubt, it is declared that changing the court's name from the 'District Court' to the 'District Court of Queensland' does not affect the following—
- (a) any jurisdiction or power of the court or 1 or more judges of the court;
 - (b) anything done or existing in relation to the court;
 - (c) a proceeding pending in the court;
 - (d) any appointment;
 - (e) the seniority of a judge;
 - (f) any principle or rule of law or equity;
 - (g) any right, privilege or liability.

Note—

See also the *Constitution of Queensland 2001*, section 89.

- (2) If, before the commencement of this section, there is a reference in an Act or document to the *District Court Act 1967*, then, from the commencement, if the context permits, the reference is taken to be a reference to the *District Court of Queensland Act 1967*.
- (3) If, before the commencement of this section, there is a reference in an Act or document to the District Court, including a reference to the District Court by virtue of section 139, then, from the commencement, if the context permits, the reference is taken to be a reference to the District Court of Queensland.

141 Transitional provision for Justice and Other Legislation (Miscellaneous Provisions) Act 2002

An appointment of a person under section 36 as in force immediately before the amendment of that section by the *Justice and Other Legislation (Miscellaneous Provisions) Act 2002*, section 12, continues to have effect as if section 12 had not been enacted.

142 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

- (1) Section 61 applies as if the reference in section 61(2)(b) to the Criminal Code, section 61 included a reference to the Criminal Code, sections 64 and 65 as in force at any time before their repeal by the *Criminal Code and Other Acts Amendment Act 2008*.
- (2) Section 61 applies as if the reference in section 61(2)(b) to the Criminal Code, section 319 included a reference to the Criminal Code, section 319A as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

143 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 10—notice to witness

- (1) This section applies if, before the commencement of this section, a witness is given a notice to witness in relation to a person committed for trial.
- (2) Sections 29 and 63, as in force immediately before the commencement of this section, continue to have effect in relation to the notice to witness until—
 - (a) the proceeding in relation to the accused person is concluded; or
 - (b) the court otherwise directs; or
 - (c) 3 years after the commencement of this section;whichever happens first.

144 Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 10—principal registrar

- (1) This section applies if, immediately before the commencement of this section, a person held appointment as a principal registrar, whether under this Act or under the *Public Service Act 2008* for the purposes of this Act.
- (2) The person continues to hold appointment as a principal registrar under this Act after the commencement in accordance with the person's instrument of appointment.

145 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—civil jurisdiction

Sections 68, 75 and 118, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply only to actions, matters or proceedings commenced after the commencement of this section.

146 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—criminal jurisdiction

- (1) Section 61, as amended by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, applies in relation to a charge for an offence only if an originating step for the proceeding for the charge is taken on or after the commencement of this section.
- (2) For subsection (1), it does not matter when the offence was committed.
- (3) In this section—
originating step, for a proceeding, means—
 - (a) the arrest of the defendant in the proceeding; or
 - (b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding;
or

- (c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.

147 Transitional provision for Justice and Other Legislation Amendment Act 2010

- (1) To remove any doubt, it is declared that an appointment of an associate to a judge that is in force under section 36 immediately before the section is replaced by a new section 36 under the *Justice and Other Legislation Amendment Act 2010*, section 32 (Replacement of s 36), is taken, from the replacement, to continue in force as if it had been made by the Chief Judge under the new section 36.
- (2) This section does not limit the *Acts Interpretation Act 1954*, section 20B.

148 Transitional provision for Civil Proceedings Act 2011—bailiff’s assistants

For the purposes of section 47, a reference to a bailiff includes a reference to a bailiff’s assistant appointed under section 41 as in force immediately before the commencement of the *Civil Proceedings Act 2011*, section 128.

149 Outdated references

In an Act or document, in the context of the District Court and if otherwise appropriate, a reference to a thing mentioned in column 1 of the following table is taken to be a reference to the corresponding thing in column 2 of the table—

Table

column 1	column 2
plaint or plaint and summons	claim
chambers	court

column 1	column 2
action	proceeding
District Court Rules 1968	Uniform Civil Procedure Rules 1999
taxation	assessment of costs
party and party costs	costs on the standard basis
solicitor and client costs	costs on the indemnity basis

150 Transitional provision for Justice and Other Legislation Amendment Act 2013

Section 113, as amended by the *Justice and Other Legislation Amendment Act 2013*, applies only to actions, matters or proceedings commenced after the commencement of the section.

151 Transitional provision for Health and Other Legislation Amendment Act 2016

Section 61 applies as if the reference in section 61(2)(b) to the Criminal Code, section 215 included a reference to the Criminal Code, section 208 as in force at any time before its repeal by the *Health and Other Legislation Amendment Act 2016*.

1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations
- 6 Table of renumbered provisions

2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
		m	
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	1993 Act No. 76	14 December 1993	25 February 1994
2	1995 Act No. 58	12 April 1996	12 April 1996

Reprint No.	Amendments to	Effective	Reprint date
2A	1996 Act No. 4	7 June 1996	15 August 1996
2B	1996 Act No. 32	18 September 1996	13 November 1996
2C	1996 Act No. 79	28 February 1997	3 March 1997
3	1997 Act No. 38	1 August 1997	5 September 1997
3A	1997 Act No. 82	5 December 1997	5 January 1998
3B	1998 Act No. 20	5 December 1997	14 May 1998
3C	1999 Act No. 66	1 July 1999	17 December 1999
4	1999 Act No. 66	1 March 2000	1 March 2000
4A	2000 Act No. 16	1 July 2000	7 July 2000
4B	2000 Act No. 46	25 October 2000	8 November 2000
4C	2001 Act No. 81	1 July 2001	1 February 2002
4D	2001 Act No. 81	28 February 2002	8 March 2002
4E	2002 Act No. 23	6 June 2002	20 June 2002

Reprint No.	Amendments included	Effective	Notes
4F	2002 Act No. 23	19 July 2002	
4G	2002 Act No. 34	16 August 2002	
4H	2003 Act No. 13	1 May 2003	
4I	2003 Act No. 19	9 May 2003	
4J rv	1992 Act No. 44 (amd 2002 Act No. 39) 2002 Act No. 39	1 July 2003	R4J rv withdrawn, see R5
5	—	1 July 2003	

Reprint No.	Amendments included	Effective	Notes
5A	2003 Act No. 77	8 December 2003	
5B	2004 Act No. 11	1 July 2004	
5C	2004 Act No. 8	6 August 2004	
5D	2004 Act No. 43	3 December 2004	
5E	2006 Act No. 29	28 August 2006	R5E withdrawn, see R6
6	—	28 August 2006	
6A	2007 Act No. 24	1 July 2007	
6B	2007 Act No. 37	28 September 2007	
6C	2008 Act No. 40	11 June 2008	
6D	2008 Act No. 59	25 November 2008	
6E	2008 Act No. 55	1 December 2008	R6E withdrawn, see R7
7	—	1 December 2008	
7A	2009 Act No. 34	29 March 2010	
7B	2010 Act No. 26	1 September 2010	
7C	2010 Act No. 39	20 September 2010	
7D	2010 Act No. 42	14 October 2010	
7E	2010 Act No. 26	1 November 2010	R7E withdrawn, see R8
8	—	1 November 2010	
8A	2011 Act No. 45	1 September 2012	
8B	—	1 January 2013	

Current as at	Amendments included	Notes
17 May 2013	2013 Act No. 8	
29 August 2013	2013 Act No. 35	
27 November 2013 rv	2013 Act No. 64	RA s 44A
23 September 2016	2016 Act No. 50	
9 December 2016	2016 Act No. 62	

4 List of legislation

District Court of Queensland Act 1967 No. 42 (prev District Courts Act 1967; District Court Act 1967)

date of assent 14 December 1967

commenced 21 December 1967 (proc pubd gaz 21 December 1967 p 1469)

Notes—

- (1) This Act contains provisions that were relocated from the District Courts (Venue of Appeals) Act 1988.
- (2) A list of legislation for the relocated Act appears below.
amending legislation—

District Courts Act Amendment Act 1969 No. 16

date of assent 16 December 1969

commenced on date of assent

District Courts Act Amendment Act 1972 No. 7

date of assent 14 December 1972

commenced on date of assent

Jury Act Amendment Act 1972 No. 35 s 24

date of assent 21 December 1972

commenced 1 March 1993 (proc pubd gaz 24 February 1973 p 821)

Court Funds Act 1973 No. 73 s 3(2)

date of assent 19 December 1973

commenced 17 June 1974 (proc pubd gaz 8 June 1974 p 846)

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974

commenced 1 July 1975 (see s 2)

District Courts' and Magistrates Courts' Jurisdiction Act 1976 No. 19 pt 2 (this Act is amended, see amending legislation below)

date of assent 15 April 1976
commenced 14 June 1977 (proc pubd gaz 4 June 1977 p 866)
amending legislation—

District Courts' and Magistrates Courts' Jurisdiction Act Amendment Act 1976 No. 53 ss 2–4 (amends 1976 No. 19 above)

date of assent 1 October 1976
commenced on date of assent

Jury Act and other Acts Amendment Act 1976 No. 39 pt 3

date of assent 5 May 1976
commenced 30 August 1976 (proc pubd gaz 24 July 1976 p 1718)

Public Trustee Act 1978 No. 73 s 5(4) sch 1

date of assent 8 December 1978
commenced 1 January 1979 (proc pubd gaz 23 December 1978 p 1970)

Crown Proceedings Act 1980 No. 2 s 4(2) sch

date of assent 31 March 1980
commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

Bail Act 1980 No. 35 s 4(1) sch 1

date of assent 14 May 1980
commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

District and Magistrates Courts Acts and Property Law Act Amendment Act 1982 No. 51 pt 2

date of assent 22 October 1982
commenced 23 May 1983 (proc pubd gaz 14 May 1983 p 393)

District Courts Act Amendment Act 1985 No. 53

date of assent 20 September 1985
commenced on date of assent

District Courts (Venue of Appeals) Act 1988 No. 7 pt 5

date of assent 7 April 1988
ss 1, 2(1) commenced on date of assent
remaining provisions commenced 1 August 1988 (proc pubd gaz 16 July 1988 p 2876)

District Courts Act and Other Acts Amendment Act 1989 No. 40 pt 2

date of assent 5 May 1989
ss 1–2(1) commenced on date of assent
remaining provisions commenced 1 November 1989 (proc pubd gaz 21 October 1989 p 1249)

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 sch

date of assent 6 December 1990
commenced on date of assent

Justice Legislation (Miscellaneous Amendments) Act 1991 No. 42 s 3 sch

date of assent 5 August 1991
commenced on date of assent

Supreme Court of Queensland Act 1991 No. 68 ss 1–2, 111 sch 2

date of assent 24 October 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 14 December 1991 (1991 SL No. 173)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 sch 1

date of assent 17 December 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 s 3 sch 1

date of assent 3 June 1993

commenced on date of assent

Justice and Attorney-General Legislation (Miscellaneous Provisions) Act 1993 No. 68 pt 2

date of assent 23 November 1993

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 s 3 sch 1

date of assent 14 December 1993

commenced on date of assent

Land Title Act 1994 No. 11 ss 1–2, 194 sch 2

date of assent 7 March 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 24 April 1994 (1994 SL No. 132)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994

commenced on date of assent

Courts Legislation Amendment Act 1995 No. 23 pts 1, 3 s 10 sch 1 (this Act is amended, see amending legislation below)

date of assent 11 April 1995

ss 1–2 commenced on date of assent

s 10 sch 1 amdts 4–7, 9–10, 12–17, 19–22, 24–29, 31–33, 35–36, 38–39 and 41–43 never proclaimed into force and rep 1995 No. 58 s 4 sch 1

remaining provisions commenced 12 April 1996 (automatic commencement under AIA s 15DA(2))

amending legislation—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1 (amends 1995 No. 23 above)

date of assent 28 November 1995

commenced on date of assent

Jury Act 1995 No. 42 ss 1–2, 76 sch 2

date of assent 9 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 17 February 1997 (1997 SL No. 13)

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

District Courts (Venue of Appeals) Act 1988 No. 7 (this Act is amended, see amending legislation below)

date of assent 7 April 1988

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 1 August 1988 (proc pubd gaz 16 July 1988 p 2876)

amending legislation—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1 (amends 1988 No. 7 above)

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Courts (Video Link) Amendment Act 1996 No. 4 pts 1, 3

date of assent 9 May 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 7 June 1996 (1996 SL No. 118)

District Courts Legislation Amendment Act 1996 No. 32 pts 1–2

date of assent 18 September 1996

commenced on date of assent

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 10

date of assent 12 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 28 February 1997 (1997 SL No. 35)

Criminal Law Amendment Act 1997 No. 3 ss 1, 2(2), 122 sch 2

date of assent 3 April 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 152)

Courts Reform Amendment Act 1997 No. 38 pts 1, 6 sch

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 SL No. 235)

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–2(1), pt 10

date of assent 5 December 1997

commenced on date of assent

Civil Justice Reform Act 1998 No. 20 ss 1, 2(2)–(3), 27 sch 2

date of assent 1 May 1998

ss 1–2 commenced on date of assent

s 27 sch 2 amdt 8 commenced on 1 August 1997 (see s 2(2))

s 27 sch 2 amdt 12 commenced 1 July 1999 (amdt could not be given effect)

remaining provisions commenced 1 July 1999 (automatic commencement under AIA s 15DA(2) (1999 SL No. 70 s 2(3))

Justice Legislation (Miscellaneous Provisions) Act (No. 2) Act 1999 No. 66 ss 1, 2(2) pt 4

date of assent 6 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2000 (2000 SL No. 15)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 3

date of assent 23 March 2000
ss 1–2, 373 commenced on date of assent (see s 2(2))
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000
ss 1–2, 590 commenced on date of assent (see s 2(1))
remaining provisions commenced 28 February 2002 (2002 SL No. 27)

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000
commenced on date of assent

Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2

date of assent 24 November 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2001 (2001 SL No. 88)

Constitution of Queensland 2001 No. 80 ss 1–2, 94 sch 2

date of assent 3 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (see s 2)

Parliament of Queensland Act 2001 No. 81 ss 1–2, ch 9 pt 5

date of assent 3 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (see s 2)

Criminal Law Amendment Act 2002 No. 23 ss 1–2(1), (3), 3 sch

date of assent 23 May 2002
ss 1–3 commenced on date of assent (see s 2(1))
remaining provisions commenced 19 July 2002 (2002 SL No. 157)

Justice and Other Legislation (Miscellaneous Provisions) Act 2002 No. 34 s 1, pt 4, s 10 sch 1

date of assent 16 August 2002
commenced on date of assent

Juvenile Justice Amendment Act 2002 No. 39 pts 1, 9

date of assent 29 August 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2003 (2002 SL No. 350)

Juvenile Justice Act 1992 No. 44 s 341(3) (prev s 262(3)) sch 3 (this Act is amended, see amending legislation below)

date of assent 19 August 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 1993 (1993 SL No. 313)

amending legislation—

Juvenile Justice Amendment Act 2002 No. 39 ss 1–2, 115, 118 (amends 1992 No. 44 above)

date of assent 29 August 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2002 SL No. 350)

Coroners Act 2003 No. 13 ss 1, 2(2), 106 sch 1

date of assent 9 April 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 May 2003 (see s 2(1))

Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch

date of assent 9 May 2003

commenced on date of assent

Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(3), pt 12

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 8 December 2003 (2003 SL No. 310)

Legal Profession Act 2003 No. 97 ss 1, 2(2), 380 sch 1

date of assent 3 December 2003

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 2004 No. 11 s 642

Terrorism (Community Safety) Amendment Act 2004 No. 8 pts 1, 4

date of assent 20 May 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 6 August 2004 (2004 SL No. 147)

Legal Profession Act 2004 No. 11 ss 1, 2(2), 596 sch 1

date of assent 31 May 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2004 (2004 SL No. 106)

Justice and Other Legislation Amendment Act 2004 No. 43 ss 1–3 sch

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 3 December 2004 (2004 SL No. 263)

Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 28 August 2006 (2006 SL No. 213)

Legal Profession Act 2007 No. 24 ss 1–2, 770 sch 1

date of assent 28 May 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2007 (2007 SL No. 151)

Justice and Other Legislation Amendment Act 2007 No. 37 pts 1, 10, s 49 sch

date of assent 29 August 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 28 September 2007 (2007 SL No. 241)

Justice and Other Information Disclosure Act 2008 No. 40 ss 1, 22–24

date of assent 11 June 2008
commenced on date of assent

Criminal Code and Other Acts Amendment Act 2008 No. 55 ss 1–2, 150 sch

date of assent 23 October 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2008 (2008 SL No. 386)

Justice and Other Legislation Amendment Act 2008 No. 59 s 1, pt 10, s 36 sch

date of assent 25 November 2008
commenced on date of assent

**Juvenile Justice and Other Acts Amendment Act 2009 No. 34 ss 1, 2(2), 45(1) sch pt 1
amdt 14**

date of assent 17 September 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 29 March 2010 (2010 SL No. 37)

**Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010
No. 26 pts 1, 6**

date of assent 13 August 2010
ss 1–2 commenced on date of assent
ss 49–54, 55 (to the extent it ins s 145) commenced 1 November 2010 (2010 SL No.
236)
remaining provisions commenced 1 September 2010 (2010 SL No. 236)

Land Valuation Act 2010 No. 39 ss 1, 325 sch 1 pt 2

date of assent 20 September 2010
commenced on date of assent

Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 9, s 30 sch

date of assent 14 October 2010
commenced on date of assent

Civil Proceedings Act 2011 No. 45 ss 1–2, pt 18

date of assent 6 December 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 September 2012 (2012 SL No. 146)

Commercial Arbitration Act 2013 No. 8 ss 1AA–1AB, 43 sch 1 pt 2

date of assent 14 March 2013
ss 1AA–1AB commenced on date of assent
remaining provisions commenced 17 May 2013 (2013 SL No. 65)

Justice and Other Legislation Amendment Act 2013 No. 35 s 1, pt 14

date of assent 29 August 2013

commenced on date of assent

Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013 No. 64 ss 1–2(1)(a), pt 7

date of assent 27 November 2013

commenced on date of assent

Health and Other Legislation Amendment Act 2016 No. 50 ss 1, 40 sch 1

date of assent 23 September 2016

ss 1, 40 sch 1 commenced on date of assent

Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016 No. 58 ss 1–2, 10 sch 1

date of assent 11 November 2016

ss 1–2 commenced on date of assent

s 10 sch 1 not yet proclaimed into force (see s 2)

Serious and Organised Crime Legislation Amendment Act 2016 No. 62 s 1, pt 11

date of assent 9 December 2016

commenced on date of assent

5 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 6.

Long title amd 1997 No. 82 s 30; 2001 No. 80 s 94 sch 2

Short title

s 1 amd 1995 No. 23 s 10 sch 1; 1997 No. 82 s 31; 2001 No. 80 s 94 sch 2

Suspension of Act's operation

s 2 prev s 2 amd 1989 No. 40 s 4

om 1991 No. 68 s 111 sch 2

pres s 2 ins 1995 No. 23 s 10 sch 1

Definitions

s 3 amd 1991 No. 68 s 111 sch 2; 1995 No. 23 ss 10 sch 1, 11(1)

def *ADR convenor* ins 1995 No. 23 s 11(3)

om 2011 No. 45 s 119(1)

def *ADR costs* ins 1995 No. 23 s 11(3)

om 2011 No. 45 s 119(1)

def *ADR dispute* ins 1995 No. 23 s 11(3)

om 2011 No. 45 s 119(1)

def *ADR process* ins 1995 No. 23 s 11(3)

om 2011 No. 45 s 119(1)

def *approval* ins 1997 No. 38 s 40(1)

om 2010 No. 42 s 31(1)

def *Australian lawyer* ins 2004 No. 11 s 596 sch 1

amd 2007 No. 24 s 770 sch 1
def *case appraisal* ins 1995 No. 23 s 11(3)
om 2011 No. 45 s 119(1)
def *case appraiser* ins 1995 No. 23 s 11(3)
sub 2010 No. 42 s 31
om 2011 No. 45 s 119(1)
def *court* ins 2001 No. 80 s 94 sch 2
def *Court* or *District Court* om 2001 No. 80 s 94 sch 2
def *deputy sheriff* ins 2011 No. 45 s 119(2)
def *dispute* ins 1995 No. 23 s 11(3)
om 2011 No. 45 s 119(1)
def *district* sub 2002 No. 34 s 10 sch 1
def *District Court* ins 2001 No. 80 s 94 sch 2
def *District Court judge* ins 2001 No. 80 s 94 sch 2
def *District Court jurisdiction Act* ins 1995 No. 23 s 11(3) (amd 1995 No. 58 s 4 sch 1)
amd 2001 No. 80 s 94 sch 2
om 2013 No. 8 s 43 sch 1 pt 2
def *enforcement warrant* ins 2011 No. 45 s 119(2)
def *incorporated legal practice* ins 2004 No. 11 s 596 sch 1
amd 2007 No. 24 s 770 sch 1
def *judge* ins 2001 No. 80 s 94 sch 2
def *judge* or *District Court judge* om 2001 No. 80 s 94 sch 2
def *judgment* amd 2002 No. 34 s 10 sch 1
def *judicial registrar* ins 1998 No. 20 s 27 sch 2
om 2011 No. 45 s 119(1)
def *lawyer* ins 2004 No. 11 s 596 sch 1
amd 2007 No. 24 s 770 sch 1
def *Magistrates Court* om 1995 No. 23 s 11(2) (amd 1995 No. 58 s 4 sch 1)
def *mediation* ins 1995 No. 23 s 11(3)
om 2011 No. 45 s 119(1)
def *mediator* ins 1995 No. 23 s 11(3)
amd 1997 No. 38 s 40(2)
sub 2010 No. 42 s 31
om 2011 No. 45 s 119(1)
def *mentally ill person* om 2000 No. 16 s 590 sch 1 pt 2
def *party* om 1995 No. 23 s 11(2)
ins 1995 No. 23 s 11(3) (amd 1995 No. 58 s 4 sch 1)
om 2011 No. 45 s 119(1)
def *precincts* ins 1997 No. 38 s 40(1)
amd 2001 No. 80 s 94 sch 2
def *referring court* ins 1995 No. 23 s 11(3)
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 119(1)
def *referring order* ins 1995 No. 23 s 11(3)
om 2011 No. 45 s 119(1)
def *registrar* sub 1998 No. 20 s 27 sch 2
amd 2008 No. 59 s 36 sch

sub 2011 No. 45 s 119
def *rules* ins 1995 No. 23 s 11(3)
sub 1998 No. 20 s 27 sch 2
amd 2007 No. 37 s 49 sch
def *rules of court* om 1995 No. 23 s 11(2) (amd 1995 No. 58 s 4 sch 1)
def *sheriff* ins 2011 No. 45 s 119(2)

Courts

hdg prec prev s 5 om 1994 No. 87 s 3 sch 2

PART 2—COURT, JUDGES, REGISTRY AND OFFICERS

pt hdg sub 1997 No. 82 s 32
amd 2011 No. 45 s 120

Division 1—Court

div hdg ins 1994 No. 87 s 3 sch 2
sub 1997 No. 82 s 32

Establishment of the District Court

s 4 amd 1995 No. 58 s 4 sch 1
sub 1997 No. 82 s 32
om 2001 No. 80 s 94 sch 2

Members and constitution of Court

s 5 (prev s 4(2)–(3)) renum 1995 No. 58 s 4 sch 1
amd 1995 No. 58 s 4 sch 1
sub 1997 No. 82 s 32

Where the Court may be held

s 6 sub 1997 No. 82 s 32

Declaration of districts

s 7 prev s 7 om 1990 No. 88 s 3 sch
pres s 7 (prev s 6(2)) renum 1995 No. 23 s 10 sch 1
sub 1997 No. 82 s 32

Court to be a court of record

s 8 sub 1997 No. 82 s 32

Statewide jurisdiction

s 8A ins 1997 No. 82 s 32

Court seal

s 8B ins 1997 No. 82 s 32
amd 2002 No. 34 s 10 sch 1
sub 2011 No. 45 s 121

Judges

hdg prec s 9 om 1994 No. 87 s 3 sch 2

Division 2—Judges

div hdg ins 1994 No. 87 s 3 sch 2

Appointment and qualification of judges

s 9 amd 1969 No. 16 s 2; 1972 No. 7 s 2
om 2001 No. 80 s 94 sch 2

Chief Judge

s 10 sub 1985 No. 53 s 3; 1993 No. 32 s 3 sch 1; 1996 No. 32 s 3
amd 2001 No. 80 s 94 sch 2

Seniority

s 10A ins 2001 No. 80 s 94 sch 2
amd 2008 No. 40 s 23

Leave of absence

s 12 ins 1993 No. 68 s 3
amd 2008 No. 59 s 37

Judge not to practice as lawyer, etc.

s 13 amd 2001 No. 81 s 133
sub 2004 No. 11 s 596 sch 1

Retirement of judges

s 14 ins 1991 No. 68 s 111 sch 2
amd 2001 No. 80 s 94 sch 2; 2002 No. 34 s 11; 2013 No. 35 s 61

Removal from office

s 15 prev s 15 om 1991 No. 68 s 111 sch 2
pres s 15 sub 1996 No. 32 s 4
om 2001 No. 80 s 94 sch 2

Retirement of judge

s 16 amd 1991 No. 68 s 111 sch 2
om 1997 No. 82 s 33

Acting judge

s 17 amd 1972 No. 7 s 3; 1996 No. 32 s 5; 2008 No. 59 s 38; 2013 No. 35 s 62

Governor in Council may assign Courts to each Judge

s 18 amd 1995 No. 58 s 4 sch 1
om 2002 No. 34 s 10 sch 1

Judge empowered to act throughout the State

s 19 amd 2002 No. 34 s 10 sch 1

Judge to hold court where directed, and to give notice

s 20 amd 1995 No. 23 s 10 sch 1; 1998 No. 20 s 27 sch 2; 2002 No. 34 s 10 sch 1;
2007 No. 37 s 49 sch

Adjournment within district

s 21 ins 1991 No. 42 s 3 sch
amd 2000 No. 46 s 3 sch; 2002 No. 34 s 10 sch 1

Judge may sit in chambers

s 22 om 1998 No. 20 s 27 sch 2

Jurisdiction in chambers

s 23 om 1998 No. 20 s 27 sch 2

Application if original judge unable to continue

s 25 sub 2011 No. 45 s 122

Proof of incapacity of judge

s 26 prev s 26 om 1993 No. 76 s 3 sch 1

Judge may perform the duties of another judge

s 27 amd 2002 No. 34 s 10 sch 1; 2003 No. 77 s 68

Protection for administrative acts

s 28AA ins 1999 No. 66 s 18

Division 2A—Powers and responsibilities of Chief Judge

div hdg ins 1997 No. 38 s 41

Arrangement of business

s 28A ins 1997 No. 38 s 41
amd 2002 No. 34 s 10 sch 1

Division 2AA—Judge Administrator

div 2AA (ss 28B–28F) ins 2008 No. 40 s 24

Certiorari

hdg prec s 29 om 1994 No. 87 s 3 sch 2

Division 3—Prerogative writs

div hdg ins 1994 No. 87 s 3 sch 2

When action may be removed

s 29 amd 1980 No. 35 s 4(1) sch 1; 1996 No. 79 s 31; 2002 No. 34 s 10 sch 1; 2008 No. 59 s 39

Order in lieu of mandamus

hdg prec s 30 om 1994 No. 87 s 3 sch 2

Rule or order substituted for writ of mandamus to a judge or officer

s 30 amd 2002 No. 34 s 10 sch 1

Prohibition

hdg prec s 31 om 1994 No. 87 s 3 sch 2

Judge not to be served with notice of application for prohibition

s 31 amd 2002 No. 34 s 10 sch 1

Practice in such cases

hdg prec s 32 om 1994 No. 87 s 3 sch 2

Rule or summons to show cause why a writ of certiorari or prohibition should not be issued to be a stay of proceedings

s 32 amd 2002 No. 34 s 10 sch 1

Notice of rule or summons to be given to registrar and parties

s 33 pres s 33 (prev s 32(2)) renum 1995 No. 58 s 4 sch 1
amd 2002 No. 34 s 10 sch 1

Notice of writ of certiorari or prohibition obtained ex parte to be given to registrar and parties

s 34 amd 2002 No. 34 s 10 sch 1

Registries

hdg prec s 35 om 1994 No. 87 s 3 sch 2

Division 4—Registry

div hdg ins 1994 No. 87 s 3 sch 2

sub 2011 No. 45 s 123

Registry

s 35 amd 2002 No. 34 s 10 sch 1

sub 2011 No. 45 s 123

Process returnable in office where issued but effective throughout State

s 35A prev s 35A ins 1998 No. 20 s 27 sch 2

amd 2004 No. 11 s 596 sch 1

om 2011 No. 45 s 124

pres s 35A ins 2011 No. 45 s 123

Control

s 35B prev s 35B ins 1998 No. 20 s 27 sch 2

om 2011 No. 45 s 124

pres s 35B ins 2011 No. 45 s 123

Officers

hdg prec s 36 om 1994 No. 87 s 3 sch 2

Division 5—Officers

div hdg ins 1994 No. 87 s 3 sch 2

Subdivision 1—Judicial registrars

sdiv hdg ins 1998 No. 20 s 27 sch 2

om 2011 No. 45 s 124

Rehearing after judicial registrar's decision

s 35C ins 1998 No. 20 s 27 sch 2

om 2011 No. 45 s 124

Conditions of appointment

s 35D ins 1998 No. 20 s 27 sch 2

amd 2008 No. 59 s 36 sch

om 2011 No. 45 s 124

Retirement of judicial registrars

s 35E ins 1998 No. 20 s 27 sch 2

om 2011 No. 45 s 124

Preservation of rights

s 35F ins 1998 No. 20 s 27 sch 2

om 2011 No. 45 s 124

Subdivision 2—Other officers

sdiv hdg ins 1998 No. 20 s 27 sch 2
om 2011 No. 45 s 125

Principal registrar, other registrars and officers

s 36 sub 2002 No. 34 s 12
amd 2008 No. 59 ss 40, 36 sch
sub 2010 No. 42 s 32; 2011 No. 45 s 126

Delegation by registrar

s 36A ins 2008 No. 59 s 41
sub 2011 No. 45 s 126

Directions

s 36B ins 2011 No. 45 s 126

Supreme Court and Magistrates Court officers

s 36C ins 2011 No. 45 s 126

Associates

s 36D ins 2011 No. 45 s 126

Duties of registrar

s 37 amd 2002 No. 34 s 10 sch 1

Registrar to act as deputy sheriff

s 38 amd 1995 No. 23 s 10 sch 1
om 1995 No. 42 s 76 sch 2

Minutes of proceedings to be kept

s 39 amd 1988 No. 7 s 16; 2002 No. 34 s 10 sch 1

When a clerk of the court is registrar, the clerk's successor or deputy shall be registrar

s 40 amd 2002 No. 34 s 10 sch 1; 2008 No. 59 s 42; 2011 No. 45 s 127

Appointment of bailiffs

s 41 amd 2002 No. 34 s 10 sch 1; 2008 No. 59 s 43
sub 2011 No. 45 s 128

Power of bailiffs

s 42 sub 2011 No. 45 s 129

Functions of bailiffs

s 43 amd 2002 No. 34 s 10 sch 1
sub 2011 No. 45 s 129

Bailiff not required to take out auctioneer's licence

s 44 amd 2011 No. 45 s 130

Remuneration of bailiffs

s 45 amd 2002 No. 34 s 10 sch 1; 2011 No. 45 s 131

Bailiff's protection from liability

s 47 prev s 47 om 2000 No. 5 s 373 sch 3
pres s 47 ins 2011 No. 45 s 132

Division 6—General provisions about officers

div hdg ins 1994 No. 87 s 3 sch 2

General provision relating to officers

hdg prec s 48 om 1994 No. 87 s 3 sch 2

Disabilities of registrar and bailiff

s 48 amd 2004 No. 11 s 596 sch 1
om 2011 No. 45 s 133

Bailiff to give security

s 49 om 1997 No. 38 s 42

Remedies against and penalties on bailiffs and other officers for misconduct

s 50 prev s 50 om 1974 No. 75 s 4 sch

Barristers, solicitors and agents

hdg prec s 52 om 1994 No. 87 s 3 sch 2

Division 7—Court appearance

div hdg ins 1994 No. 87 s 3 sch 2
sub 2004 No. 11 s 596 sch 1; 2011 No. 45 s 134

Court appearance

s 52 amd 2002 No. 34 s 10 sch 1; 2004 No. 11 s 596 sch 1
sub 2011 No. 45 s 134

PART 3—JURORS

pt hdg om 1995 No. 42 s 76 sch 2

Who shall be jurors

s 53 amd 1976 No. 39 s 34
om 1995 No. 42 s 76 sch 2

Jury list for new districts

s 54 amd 1976 No. 39 s 35; 1995 No. 58 s 4 sch 1
om 1995 No. 42 s 76 sch 2

Provisions of the Jury Act 1929 to apply

s 55 om 1995 No. 42 s 76 sch 2

Precept or order

s 56 amd 1972 No. 35 s 24(1); 1976 No. 39 s 36(a)(i)–(c); 1995 No. 23 s 10 sch 1
om 1995 No. 42 s 76 sch 2

Number to be empanelled

s 57 (prev s 56(3)) renum 1995 No. 23 s 10 sch 1
om 1995 No. 42 s 76 sch 2

Attendance of jurors

s 58 om 1995 No. 42 s 76 sch 2

Payments to jurors

s 59 om 1995 No. 42 s 76 sch 2

PART 4—CRIMINAL JURISDICTION AND PROCEDURE

Division 1—Criminal jurisdiction

div hdg ins 1994 No. 87 s 3 sch 2

Criminal jurisdiction

s 60 amd 2002 No. 34 s 10 sch 1

Criminal jurisdiction if maximum penalty more than 20 years

s 61 sub 1989 No. 40 s 5

amd 1990 No. 88 s 3 sch; 1997 No. 3 s 122 sch 2

sub 1999 No. 66 s 19

amd 2000 No. 63 s 276 sch 2; 2002 No. 23 s 3 sch; 2003 No. 13 s 106 sch 1; 2004 No. 8 s 16; 2006 No. 29 s 518 sch 3; 2007 No. 37 s 50; 2008 No. 55 s 150 sch; 2010 No. 26 s 48; 2016 No. 50 s 40 sch 1; 2016 No. 62 s 162

No general criminal jurisdiction over a child

s 61A ins 2002 No. 39 s 150

amd 1992 No. 44 s 341 sch 3 (ins 2002 No. 39 ss 115, 118); 2009 No. 34 s 45(1) sch pt 1 amdt 14

Withdrawal of criminal jurisdiction

s 62 sub 1995 No. 58 s 4 sch 1

om 2002 No. 34 s 10 sch 1

Procedure

hdg prec s 63 om 1994 No. 87 s 3 sch 2

Division 2—Procedure

div hdg ins 1994 No. 87 s 3 sch 2

Change of venue

s 63 amd 1980 No. 35 s 4(1) sch 1; 2002 No. 34 s 10 sch 1; 2008 No. 59 s 44

Change of trial from Supreme Court to District Court

s 64 amd 2002 No. 34 s 10 sch 1

Jury in criminal trials

s 65 sub 1995 No. 42 s 76 sch 2

Issues of law and fact

s 66 om 2011 No. 45 s 135

Registrar may issue subpoenas

s 67 amd 2002 No. 34 s 10 sch 1

om 2011 No. 45 s 135

PART 5—CIVIL JURISDICTION

Division 1—Civil jurisdiction

div hdg ins 1994 No. 87 s 3 sch 2

Civil jurisdiction

s 68 amd 1976 No. 19 s 5; 1982 No. 51 s 5

sub 1989 No. 40 s 6

amd 1997 No. 38 s 43; 2002 No. 34 s 10 sch 1; 2010 No. 39 s 325 sch 1 pt 2; 2010 No. 42 s 30 sch; 2010 No. 26 s 49

Powers of District Court

s 69 amd 1976 No. 19 s 6

sub 1989 No. 40 s 6

amd 1998 No. 20 s 27 sch 2; 2002 No. 34 s 10 sch 1; 2004 No. 43 s 3 sch; 2010 No. 42 s 30 sch; 2010 No. 26 s 50

Relief against proceedings to recover land

s 70 prev s 70 amd 1976 No. 19 s 8

om 1980 No. 2 s 4(2) sch

pres s 70 amd 1976 No. 19 s 7

sub 1989 No. 40 s 6

amd 2002 No. 34 s 10 sch 1

Consent jurisdiction

s 72 prev s 72 om 1976 No. 19 s 9

pres s 72 amd 2002 No. 34 s 10 sch 1; 2004 No. 11 s 596 sch 1

Splitting demands—abandonment of excess

s 73 amd 1976 No. 19 s 10; 2002 No. 34 s 10 sch 1

Splitting debt by giving bills

s 74 pres s 74 (prev s 73(2)) renum 1995 No. 23 s 10 sch 1

amd 2010 No. 42 s 30 sch

Trial by jury

hdg prec s 75 om 1994 No. 87 s 3 sch 2

Division 2—Trial by jury

div hdg ins 1994 No. 87 s 3 sch 2

When a jury may be summoned

s 75 amd 1976 No. 19 s 11; 1982 No. 51 s 5; 1989 No. 40 s 7; 2010 No. 26 s 51

Evidence

hdg prec s 76 om 1994 No. 87 s 3 sch 2

Division 3—Evidence

div hdg ins 1994 No. 87 s 3 sch 2

Rules of evidence

s 76 amd 2002 No. 34 s 10 sch 1

Removal of actions

hdg prec s 77 om 1994 No. 87 s 3 sch 2

Division 4—Commercial and other lists

div hdg ins 1994 No. 87 s 3 sch 2

sub 2011 No. 45 s 136

Court may maintain lists

s 77 sub 1989 No. 40 s 8

Endnotes

amd 1995 No. 58 s 4 sch 1; 1999 No. 66 s 20; 2002 No. 34 s 10 sch 1; 2010 No. 42 s 30 sch; 2010 No. 26 s 52
sub 2011 No. 45 s 136

No appeal from entry on a list

s 78 sub 1989 No. 40 s 8
amd 1995 No. 58 s 4 sch 1; 1999 No. 66 s 21; 2002 No. 34 s 10 sch 1; 2010 No. 42 s 30 sch; 2010 No. 26 s 53
sub 2011 No. 45 s 136

Commercial list proceeding

s 79 amd 1989 No. 40 s 9; 2002 No. 34 s 10 sch 1
sub 2011 No. 45 s 136

Transfer of certain actions from Magistrates Court to District Court at defendant's instance

s 80 amd 1989 No. 40 s 10; 1996 No. 79 s 32; 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 136

Procedure where proceedings beyond jurisdiction are commenced in Magistrates Court

s 81 amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 136

Plaintiff's right to transfer action from District Court to Supreme Court

s 82 prev s 82 om 1989 No. 40 s 11
pres s 82 amd 1989 No. 40 s 12(a)(i)–(iii), (b)(i); 1995 No. 23 s 10 sch 1; 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 136

Transfer of certain actions from District Court to Supreme Court at defendant's instance

s 83 (prev s 82(2)–(3)) renum 1995 No. 23 s 10 sch 1
amd 1996 No. 79 s 33; 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 136

Costs

s 84 amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 136

Procedure if proceeding started in wrong court

s 85 sub 2002 No. 34 s 13
om 2011 No. 45 s 136

Jurisdiction as to counterclaims

s 86 amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 136

Application of statutes of limitations

s 87 amd 1995 No. 58 s 4 sch 1; 2002 No. 34 s 10 sch 1; 2004 No. 43 s 3 sch
om 2011 No. 45 s 136

Warrant empowers bailiff to enter on land

s 88 prev s 88 amd 1976 No. 19 s 12 (amd 1976 No. 53 s 3)
om 1989 No. 40 s 13
pres s 88 sub 1991 No. 97 s 3 sch 1

PART 7—ADR PROCESSES

pt hdg ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Division 1—Preliminary

div hdg ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Objects of part

s 89 orig s 89 amd 1976 No. 19 s 13
om 1989 No. 40 s 13
prev s 89 ins 1995 No. 23 s 12
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 137

Division 2—Important terms

div hdg ins 1995 No. 23 s 12
om 2011 No. 45 s 137

ADR process

s 90 orig s 90 amd 1976 No. 19 s 14 (amd 1976 No. 53 s 4); 1982 No. 51 s 5
om 1989 No. 40 s 13
prev s 90 ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Mediation

s 91 ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Case appraisal

s 92 ins 1995 No. 23 s 12
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 137

Division 3—Establishment of ADR processes

div hdg ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Approval of mediators

s 93 ins 1995 No. 23 s 12
om 2010 No. 42 s 33

Approval of case appraisers

s 94 ins 1995 No. 23 s 12
om 2010 No. 42 s 33

ADR register

s 95 ins 1995 No. 23 s 12
amd 1997 No. 38 s 44

om 2010 No. 42 s 33

Parties may agree to ADR process

s 96 ins 1995 No. 23 s 12

om 2011 No. 45 s 137

Court may consider and order reference to ADR process

s 97 ins 1995 No. 23 s 12

amd 1997 No. 38 s 45; 1999 No. 66 s 22; 2002 No. 34 s 10 sch 1

om 2011 No. 45 s 137

Parties must attend at ADR process if District Court orders

s 98 ins 1995 No. 23 s 12

amd 2002 No. 34 s 10 sch 1

om 2011 No. 45 s 137

Procedure at case appraisal

s 99 orig s 99 amd 1994 No. 11 s 194 sch 2

om 1995 No. 23 s 10 sch 1

prev s 99 ins 1995 No. 23 s 12

amd 2002 No. 34 s 10 sch 1

om 2011 No. 45 s 137

Subpoenas

s 100 ins 1995 No. 23 s 12

amd 2002 No. 34 s 10 sch 1

om 2011 No. 45 s 137

Division 4—Party unable to pay share of costs

div hdg ins 1995 No. 23 s 12

om 2011 No. 45 s 137

Party unable to pay share of costs

s 101 ins 1995 No. 23 s 12

amd 2002 No. 34 s 10 sch 1

om 2011 No. 45 s 137

Division 5—What to do when ADR process is finished

div hdg ins 1995 No. 23 s 12

om 2011 No. 45 s 137

Mediated resolution agreement

s 102 ins 1995 No. 23 s 12

om 2011 No. 45 s 137

Mediator to file certificate

s 103 ins 1995 No. 23 s 12

om 2011 No. 45 s 137

Unclaimed Money in Court

hdg prec prev s 104 om 1973 No. 73 s 3(2)

Case appraiser to file certificate and decision

s 104 orig s 104 om 1973 No. 73 s 3(2)

prev s 104 ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Offences

hdg prec prev s 105 om 1994 No. 87 s 3 sch 2

Orders giving effect to mediation agreement

s 105 ins 1995 No. 23 s 12
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 137

Orders giving effect to case appraiser's decision

s 106 orig s 106 om 1978 No. 73 s 5(4) sch 1
prev s 106 ins 1995 No. 23 s 12
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 137

Division 6—Confidentiality, protection and immunity

div hdg ins 1995 No. 23 s 12
om 2011 No. 45 s 137

ADR convenors to maintain secrecy

s 107 ins 1995 No. 23 s 12
om 2011 No. 45 s 137

Ordinary protection and immunity allowed

s 108 ins 1995 No. 23 s 12
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 137

Admissions made to ADR convenors

s 109 ins 1995 No. 23 s 12
amd 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 137

Division 7—Miscellaneous

div hdg ins 1995 No. 23 s 12
om 2010 No. 42 s 34

Revocation of approval as mediator or case appraiser

s 110 ins 1995 No. 23 s 12
om 2010 No. 42 s 34

PART 7A—USE OF VIDEO LINK FACILITIES

pt hdg ins 1996 No. 4 s 7

Purpose of part

s 110A ins 1996 No. 4 s 7
amd 2002 No. 34 s 10 sch 1

Definitions for part

s 110B ins 1996 No. 4 s 7

Use of video link facilities in proceedings

s 110C ins 1996 No. 4 s 7
amd 1997 No. 38 s 46; 2002 No. 34 s 10 sch 1; 2013 No. 64 s 55

Detainee taken to be before the court

s 110D ins 1996 No. 4 s 7

Way video link facilities must be operated

s 110E ins 1996 No. 4 s 7

Facilities for private communication

s 110F ins 1996 No. 4 s 7

Variation or revocation of order

s 110G ins 1996 No. 4 s 7

PART 8—APPEALS TO THE DISTRICT COURT

pt hdg ins 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6
amd 2002 No. 34 s 10 sch 1

Definitions for pt 8

s 111 (prev s 95) amd 1988 No. 7 s 17; 1995 No. 23 s 10 sch 1
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6
def *appeal* amd 2002 No. 34 s 10 sch 1
def *far northern district* ins 1997 No. 38 s 3 sch

No appeal lies from Magistrates Court to Supreme Court

s 112 prev s 112 ins 1995 No. 23 s 5
om R2 (see RA s 37)
pres s 112 (prev s 96) amd 1988 No. 7 s 18
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6

Power of District Court on appeal from Magistrates Court

s 113 (prev 1988 No. 7 s 4)
def *central district* sub 1995 No. 58 s 4 sch 1
def *northern district* sub 1995 No. 58 s 4 sch 1
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6
amd 2002 No. 34 s 10 sch 1; 2013 No. 35 s 63

Other appeals

s 114 (prev 1988 No. 7 s 5)
amd 1995 No. 58 s 4 sch 1
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6
amd 2002 No. 34 s 10 sch 1

District Court's jurisdiction

s 115 (prev 1988 No. 7 s 6)
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6

om 2002 No. 34 s 10 sch 1

Venue of appeals

s 116 (prev 1988 No. 7 s 7)
amd 1995 No. 58 s 4 sch 1
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6
amd 1997 No. 38 s 3 sch; 2002 No. 34 s 10 sch 1
om 2011 No. 45 s 138

Transfer of appeal hearings

s 117 (prev 1988 No. 7 s 8)
reloc 1995 No. 58 s 4 sch 1
sub 1996 No. 32 s 6
amd 2002 No. 34 s 10 sch 1

PART 9—APPEALS FROM THE DISTRICT COURT TO COURT OF APPEAL

pt hdg sub 1995 No. 58 s 4 sch 1
amd 2002 No. 34 s 10 sch 1

Appeal from a District Court to the Court of Appeal

hdg prec s 118 amd 1991 No. 68 s 111 sch 2
om 1994 No. 87 s 3 sch 2

Appeal to the Court of Appeal in certain cases

s 118 amd 1976 No. 19 s 15; 1982 No. 51 s 5; 1989 No. 40 s 14; 1991 No. 68 s 111
sch 2; 1996 No. 79 s 34
sub 1997 No. 38 s 47
amd 1998 No. 20 s 27 sch 2; 2002 No. 34 s 10 sch 1; 2003 No. 77 s 69; 2010 No. 26
s 54; 2011 No. 45 s 139

Leave of District Court required to appeal from consent order

s 118A ins 2011 No. 145 s 140

Leave of District Court required to appeal in relation to costs

s 118B ins 2011 No. 145 s 140

Jurisdiction of Court of Appeal

s 119 amd 1991 No. 68 s 111 sch 2

Parties may agree not to appeal

s 120 amd 2004 No. 11 s 596 sch 1

Appeal against refusal to approve and revocation of approval as mediator or case appraiser

s 121 ins 1995 No. 23 s 13
om 2010 No. 42 s 35

Special case

s 122 (prev s 111(3)) renum 1995 No. 23 s 10 sch 1
amd 2002 No. 34 s 10 sch 1

Action on judgment

hdg prec s 123 om 1994 No. 87 s 3 sch 2

Action on judgment

s 123 amd 2002 No. 34 s 10 sch 1

PART 11—GENERAL PROVISIONS

Division 1—Court

div hdg prev div 1 hdg ins 1994 No. 87 s 3 sch 2
om 1998 No. 20 s 27 sch 2
pres div 1 hdg ins 2011 No. 45 s 141

Practice directions

s 125 prev s 125 om 1998 No. 20 s 27 sch 2
pres s 125 ins 2011 No. 45 s 141

Rules of court

hdg prec s 126 om 1994 No. 87 s 3 sch 2

Business of court

s 126 prev s 126 amd 1993 No. 32 s 3 sch 1
sub 1995 No. 23 s 14
om 1998 No. 20 s 27 sch 2
pres s 126 ins 2011 No. 45 s 141

Fees and fines

hdg prec s 127 om 1994 No. 87 s 3 sch 2

Division 2—Fees and fines

div hdg ins 1994 No. 87 s 3 sch 2

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s 127 amd 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

Fees and fines to be paid to the consolidated fund

s 128 amd 2002 No. 34 s 10 sch 1

Division 3—Offences

div hdg ins 1994 No. 87 s 3 sch 2

Contempt

s 129 amd 1989 No. 40 s 15
sub 1999 No. 66 s 23

Division 4—General

div hdg ins 1994 No. 87 s 3 sch 2

Executors

s 130 amd 2002 No. 34 s 10 sch 1

Annual report

s 130A ins 1997 No. 38 s 48
amd 2002 No. 34 s 10 sch 1

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s 130B ins 2011 No. 45 s 142

Regulation-making power

s 131 sub 1989 No. 40 s 16; 1995 No. 23 s 10 sch 1
amd 1997 No. 38 s 49; 2002 No. 34 s 10 sch 1; 2011 No. 45 s 143

PART 12—TRANSITIONAL PROVISIONS

pt hdg ins 1995 No. 23 s 10 sch 1

References to District Courts

s 132 ins 1989 No. 40 s 16
sub 1995 No. 23 s 10 sch 1

References to District Courts Act 1958

s 133 ins 1995 No. 58 s 4 sch 1

References to District Courts (Venue of Appeals) Act 1988

s 134 ins 1995 No. 58 s 4 sch 1

Transitional references to chairperson etc.

s 135 ins 1993 No. 76 s 3 sch 1

Saving of existing rules of court

s 136 ins 1995 No. 23 s 15
exp 12 April 1998 (see s 136(5))
AIA s 20A applies (see s 136(4))
om 1998 No. 20 s 27 sch 2 (amdt could not be given effect)

Continued use of title of senior judge

s 137 prev s 137 ins 1996 No. 4 s 8
exp 8 December 1996 (see s 137(3))
AIA s 20A applies (see s 137(2))
pres s 137 ins 1996 No. 32 s 7
exp 31 December 2012 (see s 137(2))

Transitional—provision for Courts Reform Amendment Act 1997

s 138 ins 1997 No. 38 s 50
exp 1 August 1999 (see s 138(3))

Transitional—establishment of the District Court

s 139 ins 1997 No. 82 s 34

Transitional—change of name to District Court of Queensland

s 140 ins 2001 No. 80 s 94 sch 2

Transitional provision for Justice and Other Legislation (Miscellaneous Provisions) Act 2002

s 141 (prev s 140) ins 2002 No. 34 s 14
reloc and renum 2003 No. 19 s 3 sch

Transitional provision for Criminal Code and Other Acts Amendment Act 2008

s 142 ins 2008 No. 55 s 150 sch

Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 10—notice to witness

s 143 ins 2008 No. 59 s 45

Transitional provision for Justice and Other Legislation Amendment Act 2008, pt 10—principal registrar

s 144 ins 2008 No. 59 s 45

Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—civil jurisdiction

s 145 ins 2010 No. 26 s 55

Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010—criminal jurisdiction

s 146 ins 2010 No. 26 s 55

Transitional provision for Justice and Other Legislation Amendment Act 2010

s 147 ins 2010 No. 42 s 36

Transitional provision for Civil Proceedings Act 2011—bailiff’s assistants

s 148 ins 2011 No. 45 s 144

Outdated references

s 149 ins 2011 No. 45 s 144

Transitional provision for Justice and Other Legislation Amendment Act 2013

s 150 ins 2013 No. 35 s 64

Transitional provision for Health and Other Legislation Amendment Act 2016

s 151 ins 2016 No. 50 s 40 sch 1

SCHEDULE—SUBJECT MATTER FOR RULES

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77(4)	77(5)
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78(4)	78(5)
78(5)	78(6)
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