

Serial 120
Local Court Bill 2015
Mr Elferink

A Bill for an Act to establish the Local Court of the Northern Territory,
and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

LOCAL COURT ACT 2015

Act No. [] of 2015

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2015

An Act to establish the Local Court of the Northern Territory,
and for related purposes

[Assented to [] 2015]
[Second reading [] 2015]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Local Court Act 2015*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Definitions

In this Act:

Act includes a Commonwealth Act.

acting Judge means an acting Judge as mentioned in section 60(1).

bailiff means a bailiff of the Court as mentioned in section 76(1).

Chief Judge means the Chief Judge of the Local Court as mentioned in section 50(1)(a).

civil jurisdiction, of the Court, means the jurisdiction of the Court under Part 3, Division 2.

civil proceedings means proceedings in the Court exercising its civil jurisdiction.

claim includes a cause of action.

Court means the Local Court established by Part 2.

courtroom means a room or other place where the Court is sitting or where a person who is participating in proceedings is located.

criminal jurisdiction, of the Court, means the jurisdiction of the Court under Part 3, Division 3.

criminal proceedings means proceedings in the Court exercising its criminal jurisdiction.

deal with, in relation to proceedings, includes to hear and determine.

Deputy Chief Judge means a Deputy Chief Judge of the Local Court as mentioned in section 50(1)(b).

JP means a justice of the peace appointed under section 5 of the *Justices of the Peace Act*.

Note for definition JP

JP does not include a Judge, registrar or other person who is a justice of the peace by reason of holding an office mentioned in Schedule 1 to the Justices of the Peace Act.

Judge means a Judge of the Local Court under section 50(1)(c) or (2) (being the Chief Judge and any Deputy Chief Judge).

judicial registrar means a judicial registrar as mentioned in section 68(1).

jurisdictional limit, see section 12.

principal registrar means the principal registrar of the Court as mentioned in section 71(1)(a).

process includes any process by which proceedings are commenced or enforced, a summons and a warrant.

registrar means a registrar of the Court as mentioned in section 71(1)(b) or (2) (being any judicial registrar and the principal registrar).

Rules means rules of court made under section 48.

Part 2 Local Court

4 Court established

A court called the Local Court of the Northern Territory is established.

5 Status of Court

- (1) The Court is a court of record.
- (2) When exercising its civil jurisdiction, the Court is a court of law and equity.
- (3) When exercising its criminal jurisdiction, the Court is a court of summary jurisdiction.

6 Constitution of Court

- (1) Subject to this section, the Court is to be constituted by a Judge.
- (2) The Court may be constituted by a judicial registrar for the purpose of dealing with civil proceedings.
- (3) However, the Court constituted by a judicial registrar cannot:
 - (a) hear and determine a claim; or
 - (b) conduct the hearing of an appeal.
- (4) The Court may be constituted by 2 or more JPs, or by one JP, for a purpose prescribed by regulation.
- (5) Despite subsections (2) to (4), the Court must be constituted by a Judge for any of the following:
 - (a) to hear and determine a charge of an indictable offence summarily under section 18(1)(a)(ii);
 - (b) to deal with proceedings that another Act provides must be dealt with by the Court constituted by a Judge.

7 Changes in constitution of Court during proceedings

- (1) In particular proceedings, the Court need not be constituted by the same person or persons for the whole of the proceedings, until the taking of evidence commences.

Example for subsection (1)

In criminal proceedings, a person who is arrested may initially be brought before the Court constituted by Judge A. When the person appears to plead the Court may be constituted by Judge B. An application under section 105G of the Local Court (Criminal Procedure) Act for leave to cross-examine a witness may be dealt with by Judge C. The preliminary examination may then be conducted by the Court constituted by Judge D. However, under subsection (2), Judge D must then complete the proceedings.

- (2) Once the taking of evidence commences, the Court must be constituted by the same person or persons until the proceedings are determined.
- (3) However, if the defendant in criminal proceedings pleads guilty and the proceedings are adjourned before the making of sentencing submissions commences, after that adjournment:
- (a) the Court need not be constituted by the same person or persons as when the plea was entered; but
 - (b) the Court must then be constituted by the same person or persons until the proceedings are determined.

Example for subsection (3)

Criminal proceedings may be adjourned after a defendant pleads guilty if a pre-sentence report is required. If the adjournment occurs before sentencing submissions commence, when the defendant re-appears for sentencing, the Court may be constituted by a different Judge from the one who constituted the Court when the plea was taken.

- (4) Further, if:
- (a) after the taking of evidence commences; or
 - (b) after the making of sentencing submissions commences;
- the person or one of the persons who constitutes the Court is unable to continue, the Court constituted by a different person or persons may continue to deal with the proceedings.
- (5) For subsection (4), a person is **unable to continue** if the person:
- (a) dies; or
 - (b) vacates office and is unable to finish dealing with the proceedings under section 58(2) or 64(2); or

- (c) is, by reason of illness, injury or other cause, unable to continue dealing with the proceedings without unreasonable delay.

8 Independence of Court

In the exercise of the Court's judicial functions the person or persons who constitute the Court are not subject to the direction or control of any person.

Part 3 Jurisdiction of the Court

Division 1 Jurisdiction generally

9 Jurisdiction of the Court

The Court has:

- (a) the civil jurisdiction set out in Division 2; and
- (b) the criminal jurisdiction set out in Division 3.

10 Court may exercise all jurisdiction at same time

The Court may exercise more than one aspect of its jurisdiction, whether conferred by this or another Act, in one sitting without adjourning or interrupting the sitting.

11 Jurisdiction concurrent with Supreme Court

The conferral of jurisdiction on the Local Court by this or another Act does not limit the jurisdiction of the Supreme Court.

Division 2 Civil jurisdiction

12 Civil jurisdiction – jurisdictional limit

The *jurisdictional limit* for the Court's civil jurisdiction is \$250 000.

13 General civil jurisdiction

- (1) The Court has jurisdiction to deal with a claim for an amount of money if:
 - (a) the amount is claimed as damages, a debt or a liquidated demand; and

- (b) either:
 - (i) the amount claimed is not more than the jurisdictional limit; or
 - (ii) the parties have given written consent to the Court dealing with the claim.
- (2) The Court has jurisdiction to deal with a claim for equitable relief if:
 - (a) the value of the relief sought is not more than the jurisdictional limit; or
 - (b) the parties have given written consent to the Court dealing with the claim.
- (3) The Court has jurisdiction to deal with a claim concerning a right to the ownership or possession of property if:
 - (a) the value of the right is not more than the jurisdictional limit; or
 - (b) the parties have given written consent to the Court dealing with the claim.
- (4) However, the Court does not have jurisdiction to deal with a claim if another Act confers that jurisdiction on another court or a tribunal, unless the jurisdiction is conferred on the Court as well as the other court or tribunal.

14 Civil jurisdiction under other laws

The Court's civil jurisdiction also includes any other jurisdiction that:

- (a) is conferred on the Court by another Act; and
- (b) is not part of the Court's criminal jurisdiction under section 19.

15 Remedies that may be granted

- (1) When exercising the jurisdiction conferred on the Court by section 13, the Court may do either or both of the following:
 - (a) grant any remedy or relief that may be claimed under that section;
 - (b) make a declaratory order of the rights of a party or parties to the proceedings.
- (2) When exercising the jurisdiction mentioned in section 14, the Court may grant any remedy or relief that is provided for by the Act that confers the jurisdiction on the Court.

- (3) However, the Court cannot issue a writ of certiorari, mandamus, prohibition or quo warranto.
- (4) Proceedings in the Court are not open to objection on the ground that a party is seeking a declaratory order of rights.

16 Jurisdiction not limited to matters entirely within Territory

The Court has jurisdiction to deal with a claim if either or both of the following apply:

- (a) a material part of the claim arose in the Territory;
- (b) the defendant resided in the Territory at the time of being served with the claim.

17 Concurrent administration of law and equity

In all proceedings in the Court, both law and equity must be administered in the manner provided in Part IV of the *Supreme Court Act* in matters within the jurisdiction of the Supreme Court, unless another Act expressly provides otherwise.

Division 3 Criminal jurisdiction

18 General criminal jurisdiction

- (1) The Court has jurisdiction to deal with offences as follows:
 - (a) to hear and determine a charge of:
 - (i) a summary offence; or
 - (ii) an indictable offence that, under another Act, may be heard and determined summarily;
 - (b) to conduct a preliminary examination for an indictable offence.
- (2) However, the Court does not have jurisdiction to deal with a charge of an offence if another Act confers that jurisdiction on another court or a tribunal.
- (3) In this section:

conduct a preliminary examination means to conduct a preliminary examination in accordance with the *Local Court (Criminal Procedure) Act* and do one of the following:

- (a) order that the defendant be discharged;

- (b) commit the defendant to the Supreme Court for trial;
- (c) commit the defendant to the Supreme Court for sentence.

indictable offence, see section 3(2) of the Criminal Code.

summary offence, see section 3(3) of the Criminal Code.

19 Criminal jurisdiction under other laws

- (1) The Court also has jurisdiction to deal with any other proceedings that another Act provides are to be dealt with by a court of summary jurisdiction.
- (2) The Court also has any other jurisdiction that:
 - (a) is conferred on the Court by another Act; and
 - (b) is expressed to be part of the Court's criminal or summary jurisdiction (however described).

Part 4 Administration of the Court

Division 1 Administration generally

20 Chief Judge responsible

- (1) The Chief Judge is the principal judicial officer of the Court.
- (2) The Chief Judge is responsible for ensuring the orderly and expeditious exercise by the Court of its jurisdiction and powers.
- (3) The Chief Judge must take reasonable steps to consult the other Judges on matters relating to the administration of the Court.
- (4) For subsection (3), the **administration of the Court** does not include the exercise by a judicial officer of the officer's judicial discretion.

21 Divisions of Court

- (1) For administrative purposes, the Court is divided into the following divisions:
 - (a) a Civil Division – to deal with all civil proceedings that are not within a class of proceedings for which a division is established as mentioned in paragraph (c);

- (b) a Criminal Division – to deal with all criminal proceedings that are not within a class of proceedings for which a division is established as mentioned in paragraph (c);
 - (c) such other divisions as are established by the Rules or another Act to deal with a specific class or classes of proceedings.
- (2) The Chief Judge must assign one or more Judges to deal with matters in each division.
 - (3) In assigning a Judge to deal with matters in a particular division the Chief Judge must have regard to the Judge's expertise in relation to matters dealt with in that division.

22 Assigning duties to judicial officers

- (1) The Chief Judge must assign duties to judicial officers.
- (2) The Chief Judge may do either or both of the following:
 - (a) direct each judicial officer where in the Territory the officer is to perform duties assigned to the officer;
 - (b) give any other directions incidental to the performance of those duties as the Chief Judge considers appropriate.
- (3) Further, the Chief Judge cannot give a direction that affects the exercise by a judicial officer of the officer's judicial discretion.
- (4) A judicial officer must carry out the duties assigned to the officer and comply with directions given under subsection (2).
- (5) In this section:

judicial officer means:

- (a) a Judge; or
- (b) a JP or judicial registrar, when constituting the Court; or
- (c) a registrar when exercising a power delegated under section 74.

23 Hours of work

- (1) If a Judge is appointed on a full-time basis, the Judge and Chief Judge may agree that the Judge is to work on a part-time basis.

- (2) If a Judge is appointed on a part-time basis:
 - (a) the Judge and Chief Judge may agree that the Judge is to work on a lesser time basis than that for which the Judge was appointed; but
 - (b) the Chief Judge cannot require or permit the Judge to work on a greater time basis than that for which the Judge was appointed.

24 Where and when Court may sit

- (1) The Court may sit at the places, and in the buildings, approved by the Minister.
- (2) The Minister must ensure that the approved buildings have suitable facilities to enable the Court to properly exercise its jurisdiction.
- (3) The Chief Judge must decide:
 - (a) at which of the approved places and in which of the approved buildings, the Court is to sit; and
 - (b) when the Court is to sit.
- (4) Despite subsections (1) and (3), if in particular proceedings the Court is satisfied that it is expedient to do so, the Court may sit at another place or time to deal with the proceedings.
- (5) The Court may do so on its own initiative or on application by a party to the proceedings.
- (6) The Court may sit:
 - (a) at any place, whether in the Territory or elsewhere; and
 - (b) at any time on any day.

25 Registries

- (1) Registries of the Court are to be maintained:
 - (a) at each place approved by the Minister under section 24; and
 - (b) at any other places approved by the Minister.
- (2) The principal registrar is responsible for the day-to-day management of the registries.

26 Court seal

- (1) The Court is to have:
 - (a) a seal; and
 - (b) as many stamps, of a design as near as practicable to that of the seal, as are necessary for the transaction of the Court's business.
- (2) The seal and stamps are to be of designs approved by the Chief Judge.
- (3) At least one of the stamps is to be kept at each registry of the Court.
- (4) The seal and stamps are to be kept and used in accordance with the Rules or as otherwise directed by the Chief Judge.
- (5) A document marked with a stamp mentioned in subsection (1)(b) is taken to have been sealed with the Court seal.

Division 2 Court records and exhibits

27 Court records

- (1) The principal registrar must ensure that proper records are kept in relation to proceedings in the Court.
- (2) The records must include case files for all proceedings commenced in the Court.

28 Case files

The case file for proceedings must include the following in relation to the proceedings:

- (a) all documents filed with the Court;
- (b) all process issued by the Court;
- (c) if there is an audio or audiovisual recording of any part of the proceedings:
 - (i) the recording; and
 - (ii) if a transcript is made of the recording – the transcript;

- (d) for any part of the proceedings for which there is not an audio or audiovisual recording – a formal written record of the proceedings;
- (e) details of directions given by the Court;
- (f) all judgments given and orders made by the Court;
- (g) details of any reasons for decisions, including sentencing remarks, given by the Court (if not included in the judgment or order);
- (h) all information that is reasonably necessary for the proper management of the proceedings;
- (i) anything else prescribed by regulation or the Rules.

Examples for paragraph (h)

Reasonably necessary information would include the following:

- (a) names and details of the parties;
- (b) dates and times of court appearances and hearings;
- (c) where, when and by whom:
 - (i) documents were filed with the Court; or
 - (ii) process was issued by the Court; or
 - (iii) judgment was given or orders were made.

29 Access to case files

- (1) A party to proceedings:
 - (a) is entitled, on request, to access to a document or other information mentioned in section 28(a) to (h), other than section 28(c)(i); and
 - (b) may, with the leave of the Court, have access to a recording mentioned in section 28(c)(i) or anything else in the case file for the proceedings.
- (2) The Court may, on application, give any other person access to all or part of the case file for proceedings other than judgments given or orders made by the Court.

Note for subsection (2)

For access to judgments and orders see section 30.

- (3) The Court may grant access under subsection (2) on any conditions the Court thinks fit.

- (4) If a person is entitled to, or is given, **access** to a thing, under this section, the person may:
- (a) if the thing is a document – inspect and obtain a copy of it; or
 - (b) if the thing is an audio or audiovisual recording:
 - (i) listen to or view it; and
 - (ii) with the leave of the Court, obtain a copy of it.

30 Access to judgments and orders

- (1) Any person may inspect or obtain a copy of a judgment given or order made by the Court.
- (2) Subsection (1) is subject to any order made by the Court restricting access to the judgment or order.
- (3) Further, if the judgment was given or order was made when the Court was not open to the public, subsection (1) applies only if the Court grants the person access to the judgment or order.
- (4) The Court may grant access under subsection (3) on any conditions the Court thinks fit.

31 Access to exhibits

- (1) A party to proceedings is entitled, on request, to access to an exhibit admitted into evidence in the proceedings.
- (2) The Court may, on application, give a person who is not a party to proceedings access to an exhibit admitted into evidence in the proceedings.
- (3) The Court may grant access under subsection (2) on any conditions the Court thinks fit.
- (4) If a person is entitled to, or is given, **access** to an exhibit under this section, the person may do the following:
 - (a) inspect the exhibit;
 - (b) if the exhibit is a document, recording or something else able to be easily copied – obtain a copy of the exhibit;
 - (c) if paragraph (b) does not apply – obtain a photograph, audiovisual recording or other record of the exhibit.

32 Fees

The regulations may provide for fees that must be paid before a person may inspect, listen to, view or obtain a copy of a thing or obtain information under this Division.

33 Principal registrar to provide copies

- (1) This section applies if a person is entitled to obtain a copy of a thing under sections 29 to 31.
- (2) On request by the person, the principal registrar must arrange for a copy of the thing to be made and provided to the person.

34 Other Acts may limit access to court records and exhibits

This Division is subject to another Act that prohibits or regulates:

- (a) access to documents or other things mentioned in this Division; or
- (b) publication of documents or other information.

Division 3 Court procedure

35 Procedure generally

- (1) The Court must conduct civil proceedings in accordance with the following:
 - (a) the *Local Court (Civil Procedure) Act*;
 - (b) this Act and the Rules;
 - (c) another Act that makes provision for the practice and procedure of the Court in civil proceedings to which that Act applies.
- (2) The Court must conduct criminal proceedings in accordance with the following:
 - (a) the *Local Court (Criminal Procedure) Act*;
 - (b) the Criminal Code;
 - (c) this Act and the Rules;
 - (d) another Act that makes provision for the practice and procedure of the Court in criminal proceedings to which that Act applies.

- (3) Subject to subsections (1) and (2), the Court is to determine its own practice and procedure.

36 Court to be open to public

- (1) Proceedings in the Court must be open to the public unless this Act or another Act provides otherwise.
- (2) The Rules may prescribe other circumstances in which proceedings need not be open to the public.

37 Orders to exclude persons from courtroom

- (1) The Court may order either or both of the following:
- (a) that all witnesses leave the courtroom and remain out of hearing of the courtroom until called to give evidence;
- (b) that a person, a class of persons or all persons be excluded from the courtroom during the whole or any part of proceedings.
- (2) The Court may make the order if it appears to the Court that justice will be best served by doing so.
- (3) The Court may make the order on its own initiative or on application by a party to the proceedings.
- (4) An order under this section does not apply to a party to the proceedings or a representative (as defined in section 38).

38 Presence of parties and representatives

- (1) A party to proceedings in the Court, and any representative of the party, is entitled to be present in the courtroom throughout the proceedings.
- (2) However, the Court may order that a party or representative be excluded from the courtroom during the whole or any part of the proceedings if it appears to the Court that the person's conduct makes it impracticable to continue the proceedings in the person's presence.
- (3) The Court may make the order on its own initiative or on application by a party to the proceedings.
- (4) Subsection (1) is subject to another Act that limits a person's entitlement to be present.

(5) In this section:

representative, of a party, means the a legal practitioner or other person who is entitled to appear in the proceedings on behalf of the party.

39 Refusal of documents if abuse of process

- (1) If it appears to a registrar that a document delivered to the Court for filing is an abuse of the Court's process or is frivolous or vexatious, the registrar may refuse to accept it unless a Judge has given leave for it to be filed.
- (2) A person aggrieved by a refusal to accept a document may apply to a Judge for leave to file the document.
- (3) If a registrar refuses to accept a document that is filed within a time limit that applies to the filing of the document and a Judge subsequently gives leave for it to be filed, it may be filed even if the time limit has by then expired.

40 Making of judgments and orders

- (1) All judgments given and orders made by the Court must be:
 - (a) issued under the seal of the Court; and
 - (b) signed by a Judge or registrar.
- (2) A judgment or order does not need to be signed by the person or persons who constituted the Court when the judgment was given or order was made.

41 Issuing of process

- (1) All process issued by the Court must be issued under the seal of the Court.
- (2) The Court may cancel process issued by the Court if satisfied there is a good reason to do so.
- (3) The Court may do so on its own initiative or on application by a party to proceedings or any other person affected by the process.
- (4) If process issued for a particular purpose is cancelled, fresh process may be issued for the same purpose.
- (5) When cancelling process, or issuing fresh process, the Court need not be constituted by the same person or persons as when the process was issued.

42 Correction of errors

- (1) The Court may correct a judgment given, order made or process issued by the Court if it contains any of the following:
 - (a) a clerical error;
 - (b) an accidental slip or omission;
 - (c) a material arithmetic error.
- (2) The Court may do so on its own initiative or on application by a party or any other person affected by the document.
- (3) When making the correction, the Court need not be constituted by the same person or persons as when the judgment was given, order was made or process was issued.

43 Entry for purpose of inspection

- (1) The Court may enter any place to make an inspection that the Court considers is relevant to exercising its jurisdiction.
- (2) The Court may authorise a Judge, JP, registrar or other person to exercise the power under subsection (1).

44 Party entitled to appear in person or by counsel

- (1) A party to proceedings has a right to appear before the Court in order to present and conduct the party's case and to call, examine, cross-examine, and re-examine witnesses.
- (2) The party may exercise this right:
 - (a) by appearing in person; or
 - (b) unless another Act expressly provides otherwise, by a legal practitioner appearing on the party's behalf.
- (3) This section does not prevent another person appearing on behalf of a party if permitted to do so by the Rules or any other law of the Territory.

Division 4 Contempt

45 Contempt of Court

- (1) A person who has been served with a summons to attend before the Court to give evidence or to produce documents or other things commits a contempt of the Court if, without reasonable excuse, the person:
 - (a) does not attend as required by the summons; or
 - (b) does not continue to attend until released by the Court from further attendance.
- (2) A person appearing before the Court as a witness commits a contempt of the Court if, without reasonable excuse, the person does not do any of the following when required by the Court to do so:
 - (a) take an oath;
 - (b) answer a question;
 - (c) produce a document or other thing.
- (3) A person commits a contempt of the Court if:
 - (a) the Court has made an order requiring the person to do or not do something; and
 - (b) the order:
 - (i) was made orally to the person while the person was in the courtroom; or
 - (ii) has been served on the person; and
 - (c) the person does not comply with the order; and
 - (d) no other law of the Territory provides a means for punishing non-compliance with or enforcing the order.
- (4) A person commits a contempt of the Court if, without reasonable excuse, the person fails to comply with an undertaking the person has given to the Court.
- (5) A person commits a contempt of the Court if the person:
 - (a) wilfully prevaricates in the face of the Court; or

- (b) engages in any other conduct that, under a law of the Territory, constitutes a contempt in the face of the Court.

46 Dealing with contempt of Court

- (1) If it appears to the Court that a person has committed a contempt of the Court, the Court may:
 - (a) for a contempt in the face of the Court – orally order that the person be arrested and brought before the Court; or
 - (b) for any contempt:
 - (i) issue a warrant to have the person arrested and brought before the Court; or
 - (ii) issue a summons requiring the person to appear before the Court.
- (2) When the person is brought or appears before the Court, the Court:
 - (a) must inform the person of the contempt with which the person is charged; and
 - (b) may deal with the person in accordance with any procedure the Court thinks fit.
- (3) The *Bail Act* applies in relation to the person as if the person were accused of an offence and were being held in custody for that offence.
- (4) The Court constituted by a person or persons other than a Judge:
 - (a) cannot exercise the Court's powers under this section and section 47; but
 - (b) may refer the alleged contempt to the Court constituted by a Judge.
- (5) The Court constituted by a Judge may exercise those powers in relation to the alleged contempt.

47 Punishment for contempt

- (1) If the Court finds a person guilty of a contempt of the Court, it may order that the person be imprisoned for not more than 6 months or be fined not more than an amount equal to 100 penalty units.
- (2) A person cannot be punished, in respect of the same conduct, for a contempt and for an offence against another Act.

- (3) If the Court orders that the person be imprisoned, the Court may order that the person be discharged before the end of the term of imprisonment that was ordered.
- (4) If a person who has been found guilty of a contempt apologises to the Court for the contempt, the Court may amend or cancel any order imposing punishment for the contempt, and if it does so may order the refund of all or part of any fine that has been paid.

Division 5 Rules and directions

48 Rules of court

- (1) The Chief Judge and at least 4 other Judges may make rules of court under this Act.
- (2) Without limiting subsection (1), rules of court may provide for the following:
 - (a) the practice and procedure of the Court in the exercise of any of its jurisdiction, whether conferred by this or another Act;
 - (b) resolution of proceedings by mediation, arbitration or other methods of dispute resolution;
 - (c) matters relating to orders of the Court and their enforcement (including, for example, examination of judgment debtors, payment of interested on judgment debts and the seizure and sale of property);
 - (d) the practice and procedure of the Court's registries and other offices;
 - (e) any matters relating to the conduct of any business of the Court.

49 Practice directions

- (1) The Chief Judge may issue directions (to be called practice directions) about the following:
 - (a) the practice and procedure of the Court in the exercise of any of its jurisdiction, whether conferred by this or another Act;
 - (b) the practice and procedure of the Court's registries and other offices.
- (2) If a practice direction is inconsistent with the Rules, the Rules prevail to the extent of the inconsistency.

Part 5 Judges of the Local Court

Division 1 Chief Judge, Deputy Chief Judges and Judges

Subdivision 1 Establishment of offices, powers and functions

50 Judicial offices

- (1) There is to be:
 - (a) a Chief Judge of the Local Court; and
 - (b) the number of Deputy Chief Judges of the Local Court determined by the Minister; and
 - (c) the number of other Judges of the Local Court determined by the Minister.
- (2) A person appointed as Chief Judge or a Deputy Chief Judge also holds office as a Judge of the Local Court.

51 Functions of Judges

- (1) The Chief Judge, a Deputy Chief Judge or any other Judge has the functions conferred by this or another Act.
- (2) A Judge may also exercise the functions of a JP or registrar.

52 Powers of Judges

A Judge has the powers necessary to perform the Judge's functions.

Subdivision 2 Appointment, terms of office etc.

53 Appointment

- (1) The Administrator may, by *Gazette* notice, appoint a person to be one of the following:
 - (a) the Chief Judge;
 - (b) a Deputy Chief Judge;
 - (c) a Judge mentioned in section 50(1)(c).
- (2) A person is eligible to be appointed if the person:
 - (a) is under 70 years of age; and

(b) is a lawyer and has been for at least 5 years.

54 Full-time or part-time appointment

- (1) A Judge may be appointed on a full-time or part-time basis.
- (2) Unless the appointment provides otherwise, a Judge is appointed on a full-time basis.

55 Salary, allowances and benefits

- (1) A Judge is entitled to receive salary, allowances and other benefits as determined by the Remuneration Tribunal under section 7 of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*.
- (2) The salary, allowances and other benefits to which a Judge is entitled must not be altered to the Judge's detriment during the Judge's term of office.
- (3) Salaries, allowances and other benefits payable under this section are to be paid from the Central Holding Authority, which is appropriated accordingly.

56 Vacation of office

A Judge holds office until one of the following occurs:

- (a) the Judge turns 70 years of age;
- (b) the Judge resigns by written notice to the Minister;
- (c) the Judge's appointment is terminated under section 57.

57 Termination of appointment

- (1) The appointment of a Judge cannot be terminated other than under this section.
- (2) The Administrator may, in writing, terminate the appointment of a Judge.
- (3) However, the Administrator may do so only on the address of the Legislative Assembly seeking the removal of the Judge on the grounds of incapacity or misbehaviour.

58 Completion of pending proceedings

- (1) This section applies if a person vacates office as a Judge other than as a result of the person's appointment being terminated.

- (2) The person may finish dealing with any proceedings that are then in progress before the person, and for that purpose is taken to be an acting Judge until those proceedings are determined.

59 Acting Chief Judge

- (1) This section applies if:
- (a) the office of Chief Judge is vacant; or
 - (b) the Chief Judge is unable, because of illness, absence or other cause, to perform the functions of the office.
- (2) The following person is to act in the office of the Chief Judge:
- (a) if a person has been appointed under subsection (3) – that person; or
 - (b) otherwise:
 - (i) if there is one Deputy Chief Judge – the Deputy Chief Judge; or
 - (ii) if there are 2 or more Deputy Chief Judges – the one who was first appointed as a Deputy Chief Judge.
- (3) The Administrator may appoint a Judge to act in the office of the Chief Judge:
- (a) during a vacancy in the office; or
 - (b) during a period or all periods when the person holding the office is unable to perform the functions of the office.
- (4) A person appointed under subsection (3) holds office until:
- (a) the expiry of the period (not exceeding 12 months) specified in the appointment; or
 - (b) the person ceases to be a Judge.

Division 2 Acting Judges

60 Appointment

- (1) The Administrator or Minister may, by *Gazette* notice, appoint a person to be an acting Judge.
- (2) An acting Judge may be appointed:
- (a) for a specified period of time; or

- (b) to work on an as needed basis when required by the Chief Judge.
- (3) A person is eligible to be appointed if the person:
 - (a) is under 75 years of age; and
 - (b) is a lawyer and has been for at least 5 years.
- (4) A person may be appointed for a term, specified in the appointment, not exceeding:
 - (a) if the appointment is made by the Administrator – 12 months;
or
 - (b) if the appointment is made by the Minister – 3 months.
- (5) An acting Judge may be reappointed.

61 Functions and powers of acting Judge

An acting Judge has all of the functions and powers of a Judge mentioned in 50(1)(c).

62 Conditions of appointment

An acting Judge holds office on the conditions (including salary, allowances and other benefits) determined by the appointer.

63 Vacation of office

An acting Judge holds office until one of the following occurs:

- (a) the acting Judge's term of appointment expires;
- (b) the acting Judge turns 75 years of age;
- (c) the acting Judge resigns by written notice to the Minister;
- (d) the acting Judge's appointment is terminated by the appointer.

64 Completion of pending proceedings

- (1) This section applies if a person vacates office as an acting Judge other than as a result of the person's appointment being terminated.
- (2) The person may finish dealing with any proceedings that are then in progress before the person, and for that purpose is taken to continue to hold office as an acting Judge until those proceedings are determined.

Division 3 General matters

65 Oath of office

- (1) A Judge or acting Judge must take an oath of office before performing any of the functions of the office.
- (2) The oath must be in the form set out in the Schedule.
- (3) The oath must be administered by:
 - (a) a Supreme Court Judge; or
 - (b) if it is administered outside the Territory – a person authorised by the Administrator.
- (4) However, a person need not take an oath under subsection (1) if the person has previously taken an oath under this section.

66 Prohibition of other work

- (1) A Judge or acting Judge must not:
 - (a) engage in legal practice (whether for reward or not); or
 - (b) accept appointment to another statutory office (whether for reward or not) without the consent of the Minister; or
 - (c) engage in any other paid work outside the person's duties as a Judge or acting Judge without the consent of the Minister.
- (2) The Minister must consult with the Chief Judge before giving consent under subsection (1), unless the consent relates to the Chief Judge.
- (3) In this section:

statutory office means an office or position under an Act of the Territory or any other jurisdiction.

67 Acts done by Judge outside the Territory

- (1) An act done by a Judge or acting Judge outside the Territory for the purpose of authenticating the signature of a person to an instrument intended to take effect in the Territory is effective for the purposes of any law of the Territory.
- (2) An oath administered by a Judge or acting Judge outside the Territory in any case in which an oath may be administered by a Judge is effective for the purposes of any law of the Territory.

- (3) This section applies unless another law requires the act to be done, or oath to be administered, in the Territory.

Part 6 Other Court officers

Division 1 Judicial registrars

68 Appointment of judicial registrars

- (1) The Minister may appoint a person to be a judicial registrar of the Court.
- (2) A person is eligible to be appointed if the person:
- (a) is, or is qualified to be, admitted to the legal profession; and
 - (b) is a public sector employee.
- (3) A person ceases to be a judicial registrar if the person ceases to be eligible under subsection (2).

69 Functions of judicial registrars

The functions of a judicial registrar are as follows:

- (a) to exercise the jurisdiction of the Court as mentioned in section 6(2) and (3);
- (b) to perform functions conferred by the Rules;
- (c) to perform any other functions conferred by this or another Act.

Note for section 69

Under section 71(2) a judicial registrar is also a registrar, and in that capacity has functions under section 72.

70 Powers of judicial registrars

A judicial registrar has the powers necessary to perform the judicial registrar's functions.

Division 2 Principal registrar and other registrars

71 Principal registrar and registrars

- (1) The Chief Executive Officer may assign a public sector employee to be:
 - (a) the principal registrar of the Court; or
 - (b) a registrar of the Court.
- (2) A judicial registrar or the principal registrar is also a registrar of the Court.

72 Functions of registrars

The functions of the principal registrar and other registrars are as follows:

- (a) to exercise powers delegated under section 74;
- (b) to perform administrative functions conferred by the Rules;
- (c) to perform any other functions conferred by this or another Act;
- (d) to perform any other administrative functions as directed by the Chief Judge.

73 Powers of registrars

A registrar has the powers necessary to perform the registrar's functions.

74 Delegation of jurisdiction to registrars

- (1) Subject to this section, the Rules may delegate to the principal registrar or other registrars any of the Court's powers in the exercise of its jurisdiction.
- (2) The Rules cannot delegate the power, in the exercise of the Court's civil jurisdiction, to:
 - (a) hear and determine a claim; or
 - (b) conduct the hearing of an appeal.

- (3) The Rules cannot delegate the power, in the exercise of the Court's criminal jurisdiction, to:
 - (a) conduct a preliminary examination (as defined in section 18(3)); or
 - (b) hear and determine a charge of an offence.
- (4) The Rules cannot delegate the power to punish a person for a contempt of the Court.

75 Review of decision of registrar in exercise of delegated jurisdiction

- (1) This section applies if a registrar makes a decision in proceedings in the exercise of a power delegated under section 74.
- (2) A party to the proceedings may appeal against the decision to the Court.
- (3) For hearing the appeal, the Court must be constituted by a Judge.
- (4) The appeal must be commenced within 14 days after the registrar's decision was made.
- (5) The Court may extend the period mentioned in subsection (4), and may do so even if that period has expired.
- (6) Unless the Court orders otherwise, an appeal does not operate as a stay of the registrar's decision.
- (7) The appeal is to be by way of a new hearing of the issue that was before the registrar.

Division 3 Bailiffs

Note for Division 3

Private bailiffs may be employed under Part 7 of the Commercial and Private Agents Licensing Act.

76 Bailiffs

- (1) The Chief Judge may appoint a person to be a bailiff of the Court.
- (2) A police officer may perform the functions of a bailiff of the Court:

77 Functions of bailiff

The functions of a bailiff are as follows:

- (a) to serve and execute any process issued by the Court;
- (b) to perform functions conferred by the Rules;
- (c) to perform any other functions conferred by this or another Act;
- (d) to perform any other functions as directed by a Judge.

78 Powers of bailiff

A bailiff has the powers necessary to perform the bailiff's functions.

Division 4 Interstate or overseas arrangements

79 Out-of-Territory registrars

- (1) If the Court is required to perform its functions at a place outside the Territory, the Minister may appoint a person as an out-of-Territory registrar for that place.
- (2) A person is eligible to be appointed if:
 - (a) the person is a registrar or deputy registrar of a court of the jurisdiction in which the place is located; or
 - (b) the Minister is satisfied that the person is otherwise appropriately qualified.
- (3) An out-of-Territory registrar holds office on the conditions (including remuneration, expenses and allowances) to which the registrar is entitled under the law of the other jurisdiction.
- (4) A person who was eligible under subsection (2)(a) ceases to be an out-of-Territory registrar if the person ceases to hold the office mentioned in that paragraph.
- (5) A person may resign as an out-of-Territory registrar by giving written notice to the Minister.

80 Registrars may hold appointments for other jurisdictions

With the approval of the Minister, a registrar of the Court may concurrently hold office as a registrar or deputy registrar of a court of another jurisdiction.

Part 7 Miscellaneous

81 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) Without limiting section 65 of the *Interpretation Act*, regulations may be made in respect of any matter that is necessary or convenient to be prescribed for the exercise by the Court of any of its jurisdiction, whether conferred by this or another Act.
- (3) Without limiting subsection (1), regulations may provide for fees payable in relation to any proceedings in the Court.

Part 8 Repeals and transitional matters

Division 1 Repeals

82 Laws repealed

The laws specified in Schedule 2 are repealed.

Division 2 Transitional matters for Local Court Act 2015

83 Definitions

In this Part:

commencement means the commencement of section 4.

Court of Summary Jurisdiction means:

- (a) the court of summary jurisdiction under the *Justices Act*, or
- (b) a magistrate, justice of the peace, or 2 or more justices of the peace, exercising a function under the *Justices Act*.

Justices Act means the *Justices Act* as in force before the commencement.

Note for definition Justices Act

The Justices Act will be amended and renamed by the Local Court (Repeals and Related Amendments) Act 2015. It will then be known as the Local Court (Criminal Procedure) Act.

Magistrates Act means the *Magistrates Act* as in force before the commencement.

new Local Court means the Local Court established by section 4.

old Local Court means the Local Court established by the old *Local Court Act*.

old Local Court Act means the *Local Court Act* (being Act No. 31 of 1989 as amended) in force before the commencement.

Note for definition old Local Court Act

The old Local Court Act will be amended and renamed by the Local Court (Repeals and Related Amendments) Act 2015. It will then be known as the Local Court (Civil Procedure) Act.

84 New Local Court is a continuation of old Courts

- (1) On the commencement, the old Local Court and the Court of Summary Jurisdiction:
 - (a) are amalgamated and become the new Local Court; and
 - (b) cease to exist as separate courts.
- (2) A reference (in an Act or other document) to the new Local Court includes, in relation to a time before the commencement, a reference to the old Local Court or the Court of Summary Jurisdiction (as the case requires), unless the context otherwise requires.

Examples for subsection (2)

- 1 *The reference in section 163 of the Local Court (Criminal Procedure) Act to "a party to proceedings before the Local Court" would include a person who was, before the commencement, a party to proceedings before the Court of Summary Jurisdiction.*
 - 2 *A reference to "a warrant issued by the Local Court" would include a warrant issued by a magistrate under the Justices Act.*
- (3) A reference (in an Act or other document) that was made before the commencement to the old Local Court or the Court of Summary Jurisdiction includes a reference to the new Local Court, unless the context otherwise requires.

85 Office holders

- (1) For section 50(1)(b) and (c), until the Minister determines otherwise:
 - (a) the number of Deputy Chief Judges is 1; and
 - (b) the number of other Judges is 12.

- (2) On the commencement, a person who held an office under a repealed provision listed in the Table to this section (an **old office**) immediately before the commencement, becomes the holder of the office under this Act listed in the Table for that old office (the **new office**).
- (3) The person holds the new office:
 - (a) on the same terms and conditions (including entitlements determined under the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*) as applied in relation to the old office; and
 - (b) if the person's appointment to the old office was for a specified term – for the remainder of that term.
- (4) A reference (in an Act or other document) to a new office includes, in relation to a time before the commencement, a reference to the old office for which the new office is listed, unless the context otherwise requires.
- (5) A reference (in an Act or other document) that was made before the commencement to an old office includes a reference to the new office listed for that old office, unless the context otherwise requires.
- (6) A reference (in an Act or other document) that was made before the commencement to the clerk, or a clerk, of the Court of Summary Jurisdiction includes a reference to a registrar, unless the context otherwise requires.

Table of office holders

	Old office	New office
1	Chief Magistrate under section 4(1)(a) of the <i>Magistrates Act</i>	Chief Judge
2	Deputy Chief Magistrate under section 4(1)(b) of the <i>Magistrates Act</i>	Deputy Chief Judge
3	Stipendiary Magistrate under section 4(1)(b) of the <i>Magistrates Act</i>	Judge as mentioned in section 50(1)(c)
4	Acting Chief Magistrate under section 9(1) of the <i>Magistrates Act</i>	acting Chief Judge under section 59(3)
5	Acting Stipendiary Magistrate under section 9(2) of the <i>Magistrates Act</i>	acting Judge
6	Relieving Magistrate under section 9A of the <i>Magistrates Act</i>	acting Judge

	Old office	New office
7	Special Magistrate under section 14 of the <i>Magistrates Act</i>	acting Judge
8	Cross-border magistrate under section 13B of the <i>Magistrates Act</i> as modified by the <i>Cross-border Justice Regulations</i>	Cross-border Judge under section 54A of the <i>Local Court Act</i> as modified by the <i>Cross-border Justice Regulations</i>
9	Judicial Registrar under section 9(1) of the old <i>Local Court Act</i>	judicial registrar
10	Registrar under section 9(1) of the old <i>Local Court Act</i>	registrar under section 71(1)(b)
11	Deputy Registrar under section 9(1) of the old <i>Local Court Act</i>	registrar under section 71(1)(b)
12	Judicial Registrar, Registrar or Deputy Registrar under section 9(4) of the old <i>Local Court Act</i>	out-of-Territory registrar under section 79
13	Bailiff under section 10A of the old <i>Local Court Act</i>	bailiff

86 Ongoing proceedings

- (1) On the commencement, proceedings currently before the old Local Court or Court of Summary Jurisdiction become proceedings before the new Local Court.
- (2) Those proceedings continue uninterrupted and, subject to subsections (3) and (4), are not affected by the enactment of this Act or the *Local Court (Repeals and Related Amendments) Act 2015*.
- (3) If, as a result of the enactment of this Act or the *Local Court (Repeals and Related Amendments) Act 2015*, the procedure applicable to the proceedings after the commencement (the **new procedure**) is different from that which would have applied had those Acts not been enacted (the **old procedure**), the proceedings are to be conducted in accordance with the new procedure.
- (4) However, if the Court is satisfied that conducting the proceedings in accordance with the new procedure would be unfair on a party to the proceedings, the Court may conduct the proceedings in accordance with the old procedure to the extent the Court thinks fit.

87 Judgments, orders and process

On the commencement, all judgments given, orders made and process issued by the old Local Court or Court of Summary Jurisdiction before the commencement and having ongoing effect, become judgments, orders and process of the new Local Court.

88 Continuation of things done by Magistrates

Despite the repeal of the *Magistrates Act*, anything done or made by a Magistrate (as defined in that Act) that is in effect immediately before the commencement continues with the same force and effect after the commencement as if it had been done by a Judge.

89 Regulations, Rules and practice directions

- (1) On the commencement, the following rules in force under the old *Local Court Act* immediately before the commencement, become rules of court under section 48:
 - (a) *Local Court Rules*;
 - (b) *Local Court (Adoption of Children) Rules*.
- (2) On the commencement, the *Justices Regulations* in force under the *Justices Act* immediately before the commencement, become rules of court under section 48.
- (3) On the commencement, all practice directions made under section 21 of the old *Local Court Act* or section 201A of the *Justices Act* that are in force immediately before the commencement become practice directions under section 49.
- (4) To the extent those rules or practice directions relate to proceedings, they become rules or practice directions relating to:
 - (a) if they were made under the old *Local Court Act* – civil proceedings; or
 - (b) if they were made under the *Justices Act* – criminal proceedings.

90 Directions to judicial officers

On the commencement, all directions made under section 13A of the *Magistrates Act* that are in force immediately before the commencement become directions under section 22.

91 Approval of places to sit

On the commencement, all appointments of places under section 13 of the *Magistrates Act* that are in force immediately before the commencement become approvals under section 24(1).

92 Contempt

- (1) Part 4, Division 4 does not apply in relation to conduct engaged in before the commencement.
- (2) Despite their repeal, sections 33 and 34 of the old *Local Court Act* and sections 26, 26A(2), 46 and 108A of the *Justices Act* continue to apply in relation to conduct engaged in before the commencement as if they had not been repealed.

93 Prerogative writs in civil proceedings

Despite the repeal of section 35 of the old *Local Court Act*, the Supreme Court does not have jurisdiction to grant relief or a remedy in the nature of certiorari, mandamus, prohibition or quo warranto in relation to anything done or not done by the old Local Court or an officer of that Court before the commencement.

94 References to repealed Acts

A reference (in an Act or other document) to this Act or a provision of this Act includes, in relation to a time before the commencement, a reference to the old *Local Court Act*, the *Justices Act* or the *Magistrates Act*, or the corresponding provision of any of those Acts (as the case requires), unless the context otherwise requires.

Example for section 94

The reference in section 65(4) to a person having previously taken an oath under section 65(1) includes a reference to a person having previously taken an oath under the corresponding provision (section 20) of the Magistrates Act.

Schedule 1 Oath of office for Judge

section 65

I, _____ *[promise/ swear etc. as required by Oaths, Affidavits and Declarations Act]* that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her heirs and successors, according to law, that I will well and truly serve in the office of _____ and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

[So help me God! or as appropriate]

Schedule 2 Laws repealed

section 82

<i>Magistrates Ordinance 1977</i>	Act No. 4, 1977
<i>Magistrates Ordinance 1978</i>	Act No. 14, 1978
<i>Magistrates Act 1979</i>	Act No. 152, 1979
<i>Magistrates Amendment Act 1980</i>	Act No. 12, 1981
<i>Magistrates Amendment Act 1988</i>	Act No. 35, 1988
<i>Magistrates Amendment Act 1998</i>	Act No. 5, 1998
<i>Magistrates Amendment Act (No. 2) 1998</i>	Act No. 45, 1998
<i>Magistrates Amendment Act 2004</i>	Act No. 49, 2004
<i>Magistrates Amendment Act 2005</i>	Act No. 36, 2005
