



Magistrates Courts Act 1921

Reprinted as in force on 1 September 2012

Reprint No. 6A

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 1 September 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Magistrates Courts Act 1921

Contents

| | | Page |
|---------------|--|------|
| Part 1 | Preliminary | |
| 1 | Short title | 5 |
| 2 | Definitions | 5 |
| 3 | Registrars | 6 |
| 3A | Principal clerk of courts is principal registrar | 6 |
| 3B | Delegation by registrar | 6 |
| 3C | Appointment of bailiffs and bailiff's assistants | 7 |
| Part 2 | Jurisdiction | |
| 4 | Jurisdiction of Magistrates Courts | 7 |
| 4AA | Proceeding commenced in central registry | 8 |
| 4A | Consent jurisdiction | 8 |
| 5 | Abandonment of excess etc. | 9 |
| 6 | Splitting debt by giving bills etc. | 9 |
| 7 | Title to land etc. | 9 |
| 8 | Infants | 10 |
| 9 | Executors etc. | 10 |
| 10 | Corporations | 10 |
| 11 | Plaint when equitable claim | 10 |
| Part 3 | Magistrates Court | |
| 14 | Magistrates Courts to be courts of record | 11 |
| 14A | Business of Magistrates Court | 11 |
| 14B | Process returnable in registry where issued but effective throughout State | 11 |
| 15 | In what Magistrates Courts actions to be brought | 11 |
| 16 | Constitution of Magistrates Courts | 12 |
| Part 4 | Practice and procedure | |
| 18 | Court appearance | 12 |

Contents

| | | |
|----------------------|---|----|
| 19 | Laws of evidence | 12 |
| 20 | Evidence. | 12 |
| Part 5A | Processes for employment claims | |
| Division 1 | Preliminary | |
| 42A | Object of pt 5A | 13 |
| 42B | Application of pt 5A | 13 |
| 42C | Decision of Magistrates Court about whether claim is an employment claim. | 14 |
| Division 2 | Conciliation of disputes | |
| Subdivision 1 | What is conciliation | |
| 42D | Meaning of conciliation process | 15 |
| 42E | Functions of conciliator. | 15 |
| Subdivision 2 | Starting conciliation process | |
| 42F | Registrar must appoint conciliator | 16 |
| 42G | Requirement for conciliator to start conciliation process | 16 |
| Subdivision 3 | Conduct of conciliation process | |
| 42H | Attendance at and participation in conciliation process | 16 |
| 42I | Procedure for conciliation process | 17 |
| 42J | Limited right to representation | 17 |
| 42K | No fee or costs payable to conciliator by parties | 18 |
| Subdivision 4 | Procedure for finishing conciliation process | |
| 42L | Conciliator to file certificate | 18 |
| 42M | Conciliation agreements. | 18 |
| 42N | Orders giving effect to conciliation agreement | 19 |
| Subdivision 5 | Confidentiality, protection and immunity | |
| 42O | Conciliators to maintain secrecy. | 19 |
| 42P | Ordinary protection and immunity allowed | 20 |
| 42Q | Admission made in conciliation process. | 20 |
| 42R | No official record of conciliation process | 20 |
| Subdivision 6 | Approval of conciliators | |
| 42S | Approval of members of industrial relations commission | 21 |
| 42T | Approval of other persons by Chief Magistrate | 21 |
| 42U | Revocation of approval | 21 |
| 42V | Appeal against refusal to approve as, or revocation of approval of, conciliator | 21 |
| 42W | Payment of conciliators | 21 |

| | | |
|-------------------|--|----|
| 42X | Conciliation register | 22 |
| Division 3 | Special provisions for proceedings heard in Magistrates Court | |
| 42Z | Application of div 3 | 22 |
| 42ZA | Representation of parties | 22 |
| 42ZB | No inference may be drawn from failure to settle | 22 |
| 42ZC | Limitation on awarding of costs | 23 |
| Part 6 | Judgments, new trials, appeals and related matters | |
| 43 | Judgments to be final | 23 |
| 44 | New trial | 23 |
| 45 | Appeal | 24 |
| 45A | Limitation on appeal if simplified procedures apply | 25 |
| 46 | Special case stated | 25 |
| 47 | Jurisdiction of the District Court | 25 |
| Part 7 | Miscellaneous | |
| 50 | Contempt | 26 |
| 51 | Transferred proceeding. | 27 |
| 53 | Action against officers | 27 |
| 54 | Court fees. | 28 |
| 55 | Fees and fines to be paid to consolidated fund | 28 |
| 56 | Fines, how to be enforced | 28 |
| 57 | Procedure of court | 28 |
| 57A | Annual report | 28 |
| 57B | Finance. | 28 |
| 58 | Regulation-making power. | 29 |
| Part 9 | Validations, savings and transitional | |
| 59 | References to Small Debts Court. | 29 |
| 60 | Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010 | 29 |
| 61 | Outdated references. | 29 |
| Endnotes | | |
| 1 | Index to endnotes. | 31 |
| 2 | Date to which amendments incorporated. | 31 |
| 3 | Key | 32 |
| 4 | Table of reprints | 32 |

Contents

| | | |
|---|--|----|
| 5 | List of legislation | 33 |
| 6 | List of annotations | 37 |
| 7 | Forms notified or published in the gazette | 48 |
| 8 | Table of renumbered provisions | 48 |

Magistrates Courts Act 1921

[as amended by all amendments that commenced on or before 1 September 2012]

An Act to amend the laws relating to the jurisdiction of magistrates and justices of the peace in civil matters

Part 1 Preliminary

1 Short title

This Act may be cited as the *Magistrates Courts Act 1921*.

2 Definitions

In this Act—

action includes an action and proceedings in replevin or interpleader and garnishee proceedings.

conciliation process see section 42D.

conciliator means a person approved as a conciliator under section 42S or 42T.

dispute, for part 5A, means a dispute that is the subject of an employment claim.

district means a district appointed under the *Justices Act 1886* for the purposes of a Magistrates Court.

employment claim see section 42B.

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

[s 3]

party means a party to a dispute.

prescribed limit means \$150000.

referring court, for a conciliation process, means the Magistrates Court the registrar of which appointed a conciliator for the dispute.

relevant organisation, for a person, means an organisation or federal organisation within the meaning of the *Industrial Relations Act 1999*, section 409, of which the person is a member or is eligible to become a member.

rules means the *Uniform Civil Procedure Rules 1999*.

3 Registrars

A clerk of the court under the *Justices Act 1886* is the registrar of each Magistrates Court held at each place for which the clerk is appointed.

3A Principal clerk of courts is principal registrar

- (1) There is to be a principal registrar of Magistrates Courts.
- (2) The principal clerk of courts appointed under the *Justices Act 1886*, section 22D also holds appointment as the principal registrar of Magistrates Courts.
- (3) The principal registrar of Magistrates Courts may—
 - (a) discharge the powers and functions of each registrar mentioned in section 3; and
 - (b) give directions to each registrar mentioned in section 3, and to any other officer employed in a registry of a Magistrates Court, about the discharge of the functions of the registrar or other officer.

3B Delegation by registrar

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

3C Appointment of bailiffs and bailiff's assistants

- (1) A Magistrates Court shall from time to time appoint a bailiff or bailiffs for the service and execution of the process, judgments, and orders authorised by this Act.
- (2) Such bailiff or bailiffs shall receive to their own use the prescribed fees.
- (3) A bailiff may appoint an appropriate person in writing to assist the bailiff.
- (4) The bailiff is responsible for the civil acts and defaults of the assistant in the discharge or purported discharge of the assistant's duties as assistant.
- (5) A registrar of a Magistrates Court may give directions to a bailiff or bailiff's assistant appointed under this section about the discharge of the functions of the bailiff.

Part 2 Jurisdiction

4 Jurisdiction of Magistrates Courts

Subject to this Act—

- (a) every personal action in which the amount claimed is not more than the prescribed limit, whether on a balance of account or after an admitted set off or otherwise; and

[s 4AA]

- (b) every action brought to recover a sum of not more than the prescribed limit, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of the distributive share under an intestacy or of a legacy under a will; and
- (c) every action in which a person has an equitable claim or demand against another person in respect of which the only relief sought is the recovery of a sum of money or of damages, whether liquidated or unliquidated, and the amount claimed is not more than the prescribed limit;

may be commenced in a Magistrates Court, and all Magistrates Courts shall within their respective districts have power and authority to hear and determine in a summary way all such actions.

4AA Proceeding commenced in central registry

- (1) Despite section 4, if under the rules a proceeding that may be started in a Magistrates Court is started in a registry for a Magistrates Court that is a central registry, that Magistrates Court has jurisdiction for the proceeding.
- (2) Subsection (1) does not prevent the proceeding being transferred to another Magistrates Court under the rules.

Examples—

Rule 40 (Change of venue by court order) of the rules allows a proceeding to be sent for trial to, or to be dealt with by, another court if the first court is satisfied the proceeding can be more conveniently or fairly heard or dealt with in the other court. Rule 41 (Change of venue by agreement) of the rules allows the court to transfer a proceeding on the agreement of the parties.

4A Consent jurisdiction

- (1) If the parties to a proceeding in relation to an amount for which the Supreme Court or District Court has jurisdiction agree that a Magistrates Court may have jurisdiction in relation to the amount, the Magistrates Court has jurisdiction for the proceeding.

- (2) The agreement must—
 - (a) be written; and
 - (b) be signed by each of the parties or their lawyers; and
 - (c) include a statement that the parties know that the proceeding is not otherwise within the jurisdiction of a Magistrates Court; and
 - (d) be filed in accordance with the rules.

5 Abandonment of excess etc.

A Magistrates Court shall have jurisdiction in a personal action if the original claim is reduced to the prescribed limit, or less, by payment, abandonment of excess, or otherwise, or by deducting any sum for which the plaintiff gives the defendant credit upon the plaint being entered.

6 Splitting debt by giving bills etc.

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 prescribed limit, the plaintiff may sue separately upon each of the securities not exceeding the prescribed limit as forming a distinct cause of action.

7 Title to land etc.

- (1) Except as by this Act provided, a Magistrates Court shall not have jurisdiction to try any case in which the title to land, or the validity of a devise, bequest, or limitation under a will or settlement, is in question.
- (2) If the title to land incidentally comes in question in an action, the court shall have power to decide the claim which it is the immediate object of the action to enforce, but the judgment of the court shall not be evidence of title between the parties or their privies in another action in that court or in any proceedings in any other court.

[s 8]

8 Infants

Any person under the age of 18 years to whom any wages or any other sum whatsoever, whether liquidated or unliquidated, not exceeding the amount in respect of which a Magistrates Court has jurisdiction, is due may sue for and recover such sum in the court in the same manner as if the person were of full age.

9 Executors etc.

- (1) Executors and administrators may sue and are liable to be sued in a Magistrates Court.
- (2) 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 sue out execution in his or her own name in the same way that the plaintiff, if living, might have done.

10 Corporations

Corporations and joint stock companies which have an office or place of business at which they carry on business in Queensland shall be amenable to the jurisdiction of Magistrates Courts.

11 Plaintiff when equitable claim

In an action in which a plaintiff seeks to enforce an equitable claim under this Act, the plaintiff or so much of it as relates to the equitable claim shall express that the plaintiff is suing upon equitable grounds.

Part 3

Magistrates Court

14 Magistrates Courts to be courts of record

- (1) Each Magistrates Court shall be a court of record, and the judgment thereof may be set up as a defence in any action brought in any court of law in Queensland.
- (2) The entry of the judgment on the cause list of a Magistrates Court shall be deemed to be a record of such judgment.

14A Business of Magistrates Court

- (1) The business of a Magistrates 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, a Magistrates 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.

14B Process returnable in registry where issued but effective throughout State

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

15 In what Magistrates Courts actions to be brought

The districts and Magistrates Courts respectively in which proceedings may be brought and heard and determined shall be as prescribed by rules of court.

[s 16]

16 Constitution of Magistrates Courts

Every action within the jurisdiction of a Magistrates Court for hearing and determination shall be heard and determined by a magistrate sitting alone provided that, where the rules permit, an action may be heard and determined by a registrar, not being a police officer, who shall, subject to and in accordance with the rules, have the jurisdiction and powers a magistrate has for the purpose.

Part 4 Practice and procedure

18 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.

19 Laws of evidence

The laws of evidence that apply in the Supreme Court apply in the trial of all questions of fact in the court.

20 Evidence

- (1) In any legal proceedings whatsoever the books of a Magistrates Court and any entries therein, or copies of the said books or entries, under the seal of the court and purporting to be signed and certified by the registrar, shall, upon production and on proof of the identity of the parties concerned, be evidence of the contents of the books or of the

judgments or other entries, and of the proceedings referred to in them, and of the regularity of the proceedings.

- (2) All process of a Magistrates Court purporting to be sealed shall be received in evidence without further proof thereof.

Part 5A Processes for employment claims

Division 1 Preliminary

42A Object of pt 5A

- (1) The object of this part is to reduce the cost of proceedings brought in a Magistrates Court by low income employees against employers for breaches of contracts of employment.
- (2) The object is achieved by—
- (a) prescribing, under section 54, lower court fees for the proceedings; and
 - (b) providing for awards of costs in limited circumstances; and
 - (c) allowing parties to be represented, without leave, by relevant organisations; and
 - (d) providing for compulsory conciliation before the hearing of the proceedings.

42B Application of pt 5A

- (1) This part applies to a claim (an *employment claim*)—
- (a) made in a proceeding started under this part by a person—
 - (i) who is or was an employee of an employer; and

[s 42C]

- (ii) whose annual wages at the time the breach of contract mentioned in paragraph (b) happened are not more than—
 - (A) if a regulation states an amount, or provides a way for working out an amount, for this subparagraph—that amount; or
 - (B) otherwise—\$98200; and
- (b) arising out of a breach of a contract of employment between the employee and employer.
- (2) However, a claim is not an employment claim if the cause of action to which the claim relates is within the jurisdiction of the industrial relations commission.
- (3) Subsection (4) applies if a person making an employment claim also makes a claim for relief or the imposition of a penalty under the *Workplace Relations Act 1996* (Cwlth) or the *Fair Work Act 2009* (Cwlth) in relation to the same employer.
- (4) This part applies to the person’s claim under the *Workplace Relations Act 1996* (Cwlth) or the *Fair Work Act 2009* (Cwlth) as if it were an employment claim.

42C Decision of Magistrates Court about whether claim is an employment claim

- (1) In a proceeding started under this part in a Magistrates Court, the court may, on the application of a party to the proceeding, decide whether the claim made in the proceeding is or is not an employment claim.
- (2) Subsection (3) applies if—
 - (a) a Magistrates Court decides a claim is not an employment claim because of section 42B(2); and
 - (b) the plaintiff discontinues or withdraws the proceeding in the Magistrates Court; and
 - (c) the plaintiff later starts a proceeding based on the claim in the industrial relations commission.

-
- (3) For the *Industrial Relations Act 1999*—
- (a) if there is a time limit under that Act for starting the proceeding mentioned in subsection (2)(c), the period starting on the day the proceeding was started in the Magistrates Court and ending on the day the court's decision is made must be disregarded; and
 - (b) any conciliation of the dispute under this part is taken to be conciliation of the dispute by the industrial relations commission.

Division 2 Conciliation of disputes

Subdivision 1 What is conciliation

42D Meaning of *conciliation process*

- (1) A *conciliation process* is a process of conciliation under which the parties to a dispute are helped and encouraged by a conciliator to resolve the dispute.
- (2) In subdivision 5, a *conciliation process* includes all the steps involved in the process of conciliation, including, for example, each of the following—
 - (a) telephone conferencing;
 - (b) joint sessions;
 - (c) private sessions.

42E Functions of conciliator

The functions of a conciliator include each of the following—

- (a) encouraging the settlement of a dispute by arranging, and helping to conduct, negotiations between the parties;
- (b) promoting the open exchange by the parties of information relevant to the dispute;

[s 42F]

- (c) giving the parties information about the operation of this Act and other laws relevant to the settlement of the dispute;

Example of other laws that may be relevant—

Uniform Civil Procedure Rules 1999

- (d) informing the parties about the conciliator's assessment of the merits of the employment claim and the possible consequences if the claim is heard by a Magistrates Court, including the orders that may be made by the court;
- (e) helping in the settlement of the dispute in any other appropriate way.

Subdivision 2 Starting conciliation process

42F Registrar must appoint conciliator

The registrar of a Magistrates Court in which an employment claim is filed must, as soon as practicable—

- (a) appoint a conciliator for the dispute; and
- (b) ensure the parties are notified of the name and contact details of the conciliator appointed for the dispute.

42G Requirement for conciliator to start conciliation process

A conciliator appointed for a dispute must start conciliating the dispute as soon as practicable after being appointed.

Subdivision 3 Conduct of conciliation process

42H Attendance at and participation in conciliation process

- (1) A conciliator may, by written notice, require the parties to a dispute to participate in a conciliation process in a particular way.

Examples of ways of participating in a conciliation process—

- attending before the conciliator at a stated time and place to participate in the conciliation process
 - participating in a telephone conference
- (2) The parties must comply with a requirement made by the conciliator under subsection (1).
- (3) If a party does not comply with a requirement made by the conciliator under subsection (1), a Magistrates Court may, subject to this part, impose sanctions against the party, including, for example, by ordering that any claim for relief by the defaulting party is stayed until further order.

42I Procedure for conciliation process

- (1) For a conciliation process, the conciliator—
- (a) must decide the procedure to be used; and
 - (b) may adopt any procedure that will, in the conciliator's opinion, enable the conciliator to perform the conciliator's functions.

Example of a procedure that may be used—

a conciliation conference

- (2) A Magistrates Court may, at any time of its own initiative or on the application of a party or the conciliator, give directions about the procedure to be used for a conciliation process.

42J Limited right to representation

- (1) For a conciliation process, a party may be represented by a relevant organisation.
- (2) Also, a party may be represented by a person other than a relevant organisation if—
- (a) either—
 - (i) the other party agrees to the party being represented by the person; or

[s 42K]

- (ii) the conciliator is satisfied the party should be permitted to be represented by the person; and
- (b) the person is appointed as the party's representative in writing.

42K No fee or costs payable to conciliator by parties

The parties are not liable to pay any fee or costs for a conciliation process to the conciliator.

Subdivision 4 Procedure for finishing conciliation process

42L Conciliator to file certificate

- (1) As soon as practicable after a conciliation process is finished, the conciliator must file with the registrar of the referring court a certificate about the conciliation process in the form prescribed under the rules.
- (2) A Magistrates Court must not hear and decide a dispute that is not entirely or partly resolved during the conciliation process unless the conciliator has filed a certificate about the conciliation process under subsection (1).
- (3) Subsection (2) does not stop the court making a decision under section 42C.

42M Conciliation agreements

- (1) This section applies if, in a conciliation process, the parties agree on a resolution of all or part of the dispute.
- (2) The agreement must be written down and signed by or for each party and by the conciliator.
- (3) The agreement has the same effect as any other compromise.

42N Orders giving effect to conciliation agreement

- (1) A party may apply to a Magistrates Court for an order giving effect to an agreement reached in a conciliation process.
- (2) However, a party may apply for the order only after the conciliator's certificate about the conciliation process is filed with the registrar of the referring court.
- (3) The court may make any order giving effect to an agreement reached in a conciliation process the court considers appropriate in the circumstances.

Subdivision 5 Confidentiality, protection and immunity

42O Conciliators to maintain secrecy

- (1) A conciliator must not, without reasonable excuse, disclose information coming to the conciliator's knowledge during a conciliation process.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse to disclose information if the disclosure is made—
 - (a) with the agreement of all parties to the dispute; or
 - (b) for this part; or
 - (c) for statistical purposes without revealing, or being likely to reveal, the identity of a person about whom the information relates; or
 - (d) for an inquiry or proceeding about an offence happening during the conciliation process; or
 - (e) for a proceeding founded on fraud alleged to be connected with, or to have happened during, the conciliation process; or
 - (f) under a requirement imposed under this or another Act.

[s 42P]

42P Ordinary protection and immunity allowed

- (1) A conciliator has, in performing the conciliator's functions, the same protection and immunity as a magistrate performing the functions of a magistrate.
- (2) A person who is a party, or a party's representative, participating in the conciliation process for a dispute has the same protection and immunity the person would have if the dispute were being heard before a Magistrates Court.
- (3) A document produced during, or used for, a conciliation process has the same protection during the process it would have if produced before a Magistrates Court.

42Q Admission made in conciliation process

- (1) Evidence of anything done or said, or an admission made, during the conciliation process for a dispute is admissible at the trial of the dispute or in another civil proceeding in a Magistrates Court or elsewhere only if all the parties to the dispute agree.
- (2) In subsection (1)—
civil proceeding does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the conciliation process.

42R No official record of conciliation process

- (1) A person must not make an official record of anything said for the purposes of a conciliation process.
Maximum penalty—20 penalty units.
- (2) A conciliator does not commit an offence against subsection (1) merely by making notes of the conciliation process or complying with section 42L(1).

Subdivision 6 Approval of conciliators

42S Approval of members of industrial relations commission

- (1) A person who is a member of the industrial relations commission is approved as a conciliator.
- (2) In this section—
member, of the industrial relations commission, does not include the president of the commission.

42T Approval of other persons by Chief Magistrate

The Chief Magistrate may approve, or refuse to approve, a person as a conciliator.

42U Revocation of approval

- (1) The Chief Magistrate may revoke the approval under section 42T of a person as a conciliator.
- (2) The Chief Magistrate must give the person a statement of reasons for the revocation.

42V Appeal against refusal to approve as, or revocation of approval of, conciliator

An appeal lies to the District Court against—

- (a) a refusal to approve a person as a conciliator under section 42T; or
- (b) the revocation of approval of a person as a conciliator under section 42U.

42W Payment of conciliators

A person approved as a conciliator under section 42T is entitled to be paid the fees prescribed under a regulation.

[s 42X]

42X Conciliation register

- (1) A registrar of a Magistrates Court nominated by the Chief Magistrate for the purpose must keep a register of information about conciliation processes.
- (2) The register may be kept in the form, whether or not in a documentary form, the registrar considers appropriate.
- (3) Without limiting subsection (2), the registrar may change the form in which all or part of the register is kept.
- (4) The register must contain each of the following—
 - (a) the name and contact details of each conciliator;
 - (b) other information prescribed under the rules;
 - (c) other information decided by the Chief Magistrate.

Division 3 Special provisions for proceedings heard in Magistrates Court

42Z Application of div 3

This division applies to a proceeding heard in a Magistrates Court involving an employment claim.

42ZA Representation of parties

- (1) A relevant organisation may appear for a party to the proceeding without special leave of the court.
- (2) This section applies despite section 18.

42ZB No inference may be drawn from failure to settle

No inference may be drawn against a party to the proceeding because of the failure to resolve all or part of the dispute during a conciliation process.

42ZC Limitation on awarding of costs

- (1) The court may order a party to the proceeding (the *paying party*) to pay the costs of another party to the proceeding, including costs incurred for a conciliation process, only if the court is satisfied—
 - (a) if the paying party is the plaintiff—the employment claim is frivolous or vexatious or is an abuse of the process of the court; or
 - (b) an unreasonable act or omission of the paying party connected with the conduct of the proceeding caused the other party to incur costs.
- (2) This section applies despite any other provision in this or another Act.

Part 6 Judgments, new trials, appeals and related matters

43 Judgments to be final

- (1) Subject to this Act, all judgments and orders made by a Magistrates Court shall be final and conclusive.
- (2) Except as provided by this Act, or by or pursuant to any other Act now in force or hereafter to be passed, a judgment given by a Magistrates Court, or an action brought before it or depending therein, shall not be removed by appeal, motion, writ of error or certiorari, or otherwise into any other court.

44 New trial

- (1) Subject to this Act, any party dissatisfied with any decision of a Magistrates Court may, at any time within 7 clear days from such decision, apply to the court for a new trial.

[s 45]

- (2) The court may grant the same upon such terms as to costs or otherwise as it thinks fit, or, in its discretion, may refuse the same with or without reasonable costs.

45 Appeal

- (1) Subject to this Act, any party who is dissatisfied with the judgment or order of a Magistrates Court—
 - (a) in an action in which the amount involved is more than the minor civil dispute limit; or
 - (b) in an action for the recovery of possession of land if—
 - (i) the value of the land is more than the minor civil dispute limit; or
 - (ii) the annual rental of the land is more than the minor civil dispute limit; or
 - (c) in proceedings in interpleader in which the amount claimed or the value of the goods in question is more than the minor civil dispute limit; or
 - (d) in a proceeding under the *Property Law Act 1974*, part 19, division 4, subdivision 1;may appeal to the District Court as prescribed by the rules.
- (2) Provided that—
 - (a) where in any of the cases above referred to in subsection (1) the amount is not more than the minor civil dispute limit, an appeal shall lie by leave of the District Court or a District Court judge, who shall not grant such leave to appeal unless the court or judge is satisfied that some important principle of law or justice is involved;
 - (b) an appeal shall not lie from the decision of the Magistrates Court if, before the decision is pronounced, both parties agree, in writing signed by themselves or their lawyers or agents, that the decision of the court shall be final.
- (3) Within the time and in the way prescribed by the rules, the appellant must give to the other party or the other party's

lawyer notice of the appeal, briefly stating the grounds of the appeal.

- (4) Notice of appeal shall not operate as a stay of execution upon the judgment, but the execution may proceed unless the magistrate or a District Court judge otherwise orders.
- (5) In this section—

minor civil dispute limit means the amount that is, for the time being, the prescribed amount under the *Queensland Civil and Administrative Tribunal Act 2009*.

45A Limitation on appeal if simplified procedures apply

If the parties agree in writing, no appeal lies from a judgment in a proceeding to which any of the simplified procedures prescribed by the rules apply.

46 Special case stated

A Magistrates Court may state in the form of a special case for the opinion of the District Court any question of law arising in any case.

47 Jurisdiction of the District Court

On the hearing of an appeal or special case, the District Court may do any of the following—

- (a) draw inferences of fact from facts found by the Magistrates Court, or from admitted facts or facts not disputed;
- (b) order a new trial on such terms as it thinks just;
- (c) order judgment to be entered for any party;
- (d) make any other order, on such terms as it thinks proper, to ensure the determination on the merits of the real questions in controversy between the parties;

- (b) a contempt mentioned in subsection (1)(b) to (f) may be punished by a maximum penalty of 84 penalty units or 1 year's imprisonment.
- (4) Without limiting the court's power to punish for contempt, the court may order a person committing a contempt to be excluded from the room or other place in which the court is sitting.
- (5) A bailiff or other court officer acting under the court's order may, using necessary and reasonable help and force, take the person into custody and detain the person until the court rises.
- (6) 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.
- (7) If the court acts under subsection (6)(a), the court may deal with the person immediately.

51 Transferred proceeding

A court to which a proceeding is transferred has jurisdiction to hear and decide the proceeding and enforce any decision given in the proceeding as if the proceeding had been started in the court.

53 Action against officers

If an action is brought against a person for anything done under a warrant or judgment or a certified copy thereof issued or made under this Act, the production of the warrant or judgment or a certified copy thereof under the seal of a Magistrates Court shall be sufficient proof of the authority of the court, and such person is hereby indemnified for whatsoever is done by the person in obedience thereto.

[s 54]

54 Court fees

There shall be payable in respect of every proceeding in a Magistrates Court the prescribed fees.

55 Fees and fines to be paid to consolidated fund

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

56 Fines, how to be enforced

Payment of any fine imposed by a Magistrates Court under the authority of this Act may be enforced upon the order of the court in like manner as payment of any debt adjudged in the court.

57 Procedure of court

The procedure for appeal to a Magistrates Court is, in the absence of relevant rules, as directed by a magistrate.

57A 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 Magistrate must prepare and give to the Minister a written report about the operation of Magistrates Courts 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.

57B Finance

The Magistrates Courts are part of the department for the purposes of the *Financial Accountability Act 2009*.

58 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 9 Validations, savings and transitional

59 References to Small Debts Court

A reference in another Act to a Small Debts Court is a reference to a Magistrates Court.

60 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

Sections 4, 4AA, 5, 6 and 45, as amended or inserted by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply only to actions or proceedings commenced after the commencement of this section.

61 Outdated references

In an Act or document, in the context of a Magistrates 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 |
| action | proceeding |
| Magistrates Courts Rules 1960 | Uniform Civil Procedure Rules 1999 |

[s 61]

Table

column 1

taxation

party and party costs

solicitor and client costs

column 2

assessment of costs

costs on the standard basis

costs on the indemnity basis

Endnotes

1 Index to endnotes

| | Page |
|--|------|
| 2 Date to which amendments incorporated | 31 |
| 3 Key | 32 |
| 4 Table of reprints | 32 |
| 5 List of legislation | 33 |
| 6 List of annotations | 37 |
| 7 Forms notified or published in the gazette | 48 |
| 8 Table of renumbered provisions | 48 |

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 September 2012. Future amendments of the Magistrates Courts Act 1921 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 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 |
| amdt | = amendment | prov | = provision |
| 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 | renum | = renumbered |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro) | = retrospectively |
| notfd | = notified | rv | = revised edition |
| num | = numbered | s | = section |
| 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 2002 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |
| prev | = previous | | |

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to | Effective | Reprint date |
|-------------|-----------------|------------------|-------------------|
| 1 | 1993 Act No. 39 | 1 November 1993 | 12 November 1993 |
| 2 | 1995 Act No. 58 | 12 April 1996 | 12 April 1996 |
| 2A | 1996 Act No. 79 | 28 February 1997 | 3 March 1997 |
| 2B | 1997 Act No. 38 | 1 August 1997 | 8 August 1997 |
| 2C | 1999 Act No. 19 | 1 July 1999 | 1 October 1999 |
| 2D | 1999 Act No. 89 | 21 December 1999 | 11 February 2000 |
| 3 | 1999 Act No. 89 | 1 March 2000 | 7 April 2000 |
| 3A | 2000 Act No. 46 | 25 October 2000 | 7 November 2000 |
| 3B | 2000 Act No. 58 | 17 November 2000 | 22 November 2000 |
| 3C | 2001 Act No. 45 | 15 July 2001 | 14 September 2001 |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|----------------|-------|
| 3D | 2002 Act No. 34 | 16 August 2002 | |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|--|------------------|-----------------------|
| 3E | 2004 Act No. 11 | 1 July 2004 | R3E withdrawn, see R4 |
| 4 | — | 1 July 2004 | |
| 4A | 2007 Act No. 24 | 1 July 2007 | |
| 4B | 2007 Act No. 55 | 9 November 2007 | |
| 4C | 2007 Act No. 23 (amd 2007 Act No. 55) | 1 January 2008 | R4C withdrawn, see R5 |
| 5 | — | 1 January 2008 | |
| 5A | 2009 Act No. 24 | 1 December 2009 | |
| 5B | 2009 Act No. 49 | 10 December 2009 | |
| 5C | 2010 Act No. 26 | 1 September 2010 | |
| 5D | 2010 Act No. 42 | 14 October 2010 | |
| 5E | 2010 Act No. 26 | 1 November 2010 | R5E withdrawn, see R6 |
| 6 | — | 1 November 2010 | |
| 6A | 2011 Act No. 45 | 1 September 2012 | |

5 List of legislation

Magistrates Courts Act 1921 12 Geo 5 No. 22

date of assent 11 November 1921

s 14 commenced 11 November 1921 (see s 14(3))

remaining provisions commenced 3 April 1922 (proc pubd gaz 30 March 1922 p 999)

amending legislation—

Magistrates Courts Acts Amendment Act 1954 3 Eliz 2 No. 32

date of assent 28 October 1954

commenced on date of assent

Justices Acts Amendment Act 1964 No. 32 s 3 sch

date of assent 14 April 1964

commenced 1 January 1965 (proc pubd gaz 7 November 1964 p 827)

Age of Majority Act 1974 No. 57 s 8 sch

date of assent 27 September 1974

commenced 1 March 1975 (proc pubd gaz 16 November 1974 p 1083)

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974

commenced 1 July 1975 (see s 2)

Magistrates Courts Act Amendment Act 1975 No. 23

date of assent 15 May 1975

commenced 1 July 1975 (proc pubd gaz 14 June 1975 p 934)

District Courts' and Magistrates Courts' Jurisdiction Act 1976 No. 19 pt 3

date of assent 15 April 1976

commenced 14 June 1977 (proc pubd gaz 4 June 1977 p 866)

**District and Magistrates Courts Acts and Property Law Act Amendment Act 1982
No. 51 pt 3**

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

District Courts (Venue of Appeals) Act 1988 No. 7 pt 4

date of assent 7 April 1988
commenced 1 August 1988 (proc pubd gaz 16 July 1988 p 2876)

District Courts Act and Other Acts Amendment Act 1989 No. 40 pt 3

date of assent 5 May 1989
commenced 1 November 1989 (proc pubd gaz 21 October 1989 p 1249)

Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 6

date of assent 14 November 1990
commenced on date of assent

Magistrates Courts Jurisdiction Amendment Act 1993 No. 39 pts 1–2 s 3 sch

date of assent 7 September 1993
ss 1–2 commenced on date of assent
remaining provisions commenced 1 November 1993 (1993 SL No. 384)

Courts Legislation Amendment Act 1995 No. 23 pts 1, 4 s 17 sch 2

date of assent 11 April 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 12 April 1996 (automatic commencement under
AIA s 15DA(2))

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

date of assent 28 November 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 12 April 1996 (automatic commencement under
AIA s 15DA(2)) (see also 1995 No. 58 s 2(1) sch 1)

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 23

date of assent 12 December 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 28 February 1997 (1997 SL No. 35)

Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3

date of assent 22 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 13 July 1997 (1997 SL No. 210)

Courts Reform Amendment Act 1997 No. 38 ss 1–2 pt 11

date of assent 18 July 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 August 1997 (1997 SL No. 235)

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

date of assent 1 May 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1999 (automatic commencement under

AIA s 15DA(2)) (1999 SL No. 70 s 2(3))

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999
commenced on date of assent

Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999 No. 66 ss 1, 2(2) pt 5

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

Property Law Amendment Act 1999 No. 89 pt 1 s 8 sch

date of assent 21 December 1999
commenced on date of assent

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

date of assent 25 October 2000
commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act 2000 No. 58 ss 1–2 sch

date of assent 17 November 2000
commenced on date of assent

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001
ss 1–2 commenced on date of assent
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)
remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Justice and Other Legislation (Miscellaneous Provisions) Act 2002 No. 34 s 1, pt 11, s 36 sch 3

date of assent 16 August 2002
commenced on date of assent

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

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)

Industrial Relations Act and Other Legislation Amendment Act 2007 No. 23 ss

1–2(1), pt 6 (this Act is amended, see amending legislation below)
date of assent 28 May 2007
ss 1–2 commenced on date of assent
s 59 (in so far as it ins pt 5A div 2 sdiv 7) never proclaimed into force and om 2007

Endnotes

No. 55 s 54 sch 1
remaining provisions commenced 1 January 2008 (see s 2(1))
amending legislation—

Judicial Remuneration Act 2007 No. 55 ss 1–2(1), 54 sch 1 (amends 2007 No. 23 above)

date of assent 9 November 2007
commenced on date of assent

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)

Judicial Remuneration Act 2007 No. 55 ss 1–2(1), 54 sch 1

date of assent 9 November 2007
commenced on date of assent

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 9 pt 24

date of assent 26 June 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Fair Work (Commonwealth Powers) and Other Provisions Act 2009 No. 49 ss 1–2, pt 3 div 9

date of assent 19 November 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 10 December 2009 (2009 SL No. 289)
Note—AIA s 15DA does not apply (see s 2(2)).

Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010 No. 26 pts 1, 13

date of assent 13 August 2010
ss 1–2 commenced on date of assent
ss 98, 100–105 commenced 1 November 2010 (2010 SL No. 236)
remaining provisions commenced 1 September 2010 (2010 SL No. 236)

Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 23, s 154 sch

date of assent 14 October 2010
commenced on date of assent

Civil Proceedings Act 2011 No. 45 ss 1–2, pt 26

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

6 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

PART 1—PRELIMINARY

pt hdg ins 1995 No. 23 s 17 sch 2

Short title

s 1 ins 1995 No. 23 s 17 sch 2

Definitions

prov hdg sub 1995 No. 23 s 18(1)

s 2 def “**action for a small debt**” ins 1975 No. 23 s 3
amd 1982 No. 51 s 7; 1989 No. 40 s 18
om 1998 No. 20 s 27 sch 2

def “**ADR convenor**” ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)

def “**ADR costs**” ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)

def “**ADR dispute**” ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)

def “**ADR process**” ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)

def “**approval**” ins 1997 No. 38 s 72(1)
om 2010 No. 42 s 155(1)

def “**case appraisal**” ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)

def “**case appraiser**” ins 1995 No. 23 s 18(2)
sub 2010 No. 42 s 155
om 2011 No. 45 s 168(1)

def “**conciliation process**” ins 2007 No. 23 s 57(2)

def “**conciliator**” ins 2007 No. 23 s 57(2)

def “**dispute**” ins 1995 No. 23 s 18(2)
sub 2007 No. 23 s 57(1)–(2); 2011 No. 45 s 168

def “**district**” sub 1964 No. 32 s 3 sch; 1993 No. 39 s 3 sch

def “**employment claim**” ins 2007 No. 23 s 57(2)

def “**Justice**” om 1993 No. 39 s 3 sch

def “**lawyer**” ins 2004 No. 11 s 596 sch 1
amd 2007 No. 24 s 770 sch 1

def “**Magistrates Court**” or “**Court**” amd 1964 No. 32 s 3 sch
om 1993 No. 39 s 3 sch

def “**Magistrates Courts jurisdiction Act**” ins 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

def “**mediation**” ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)

def “**mediator**” ins 1995 No. 23 s 18(2)
amd 1997 No. 38 s 72(2)
sub 2010 No. 42 s 155
om 2011 No. 45 s 168(1)

- def “**Minister**” ins 1990 No. 80 s 3 sch 6
om 1993 No. 39 s 3 sch
- def “**minor claim**” ins 1998 No. 20 s 27 sch 2
om 2009 No. 24 s 1560
- def “**minor debt claim**” ins 1998 No. 20 s 27 sch 2
om 2009 No. 24 s 1560
- def “**party**” ins 1995 No. 23 s 18(2)
- def “**prescribed**” om 1993 No. 39 s 3 sch
- def “**prescribed limit**” ins 2010 No. 26 s 98
- def “**referring court**”, for a conciliation process, ins 2007 No. 23 s 57(2)
- def “**referring court**”, of a mediation or case appraisal, ins 1995 No. 23 s 18(2)
om 2011 No. 45 s 168(1)
- def “**referring order**” ins 1995 No. 23 s 18(2)
amd 2000 No. 46 s 3 sch
om 2011 No. 45 s 168(1)
- def “**registrar**” sub 1964 No. 32 s 3 sch
om 1993 No. 39 s 3 sch
- def “**relevant organisation**” ins 2007 No. 23 s 57(2)
- def “**rules**” ins 1995 No. 23 s 18(2)
sub 1998 No. 20 s 27 sch 2
amd 2010 No. 42 s 154 sch
- def “**rules of court**” om 1993 No. 39 s 3 sch
- def “**Small Debts Court**” ins 1995 No. 23 s 18(2)
om 1998 No. 20 s 27 sch 2
- def “**this Act**” om 1993 No. 39 s 3 sch

Registrars

- s 3 amd 1964 No. 32 s 3 sch
sub 1993 No. 39 s 3 sch

Principal clerk of courts is principal registrar

- s 3A ins 2010 No. 26 s 99

Delegation by registrar

- s 3B ins 2011 No. 45 s 169

Appointment of bailiffs and bailiff’s assistants

- prov hdg amd 1995 No. 23 s 17 sch 2
sub 2011 No. 45 s 172(1)
- s 3C (prev s 17) amd 1964 No. 32 s 3 sch; 1995 No. 23 s 17 sch 2; 2000 No. 58 s 2
sch; 2011 No. 45 s 172(2)
reloc and renum 2011 No. 45 s 172(3)

PART 2—JURISDICTION

- pt hdg ins 1995 No. 23 s 17 sch 2

Jurisdiction of Magistrates Courts

- s 4 amd 1954 3 Eliz 2 No. 32 s 2; 1964 No. 32 s 3 sch; 1976 No. 19 s 17; 1982
No. 51 s 7; 1989 No. 40 s 19; 1993 No. 39 s 4; 1997 No. 38 s 73; 2010 No.
26 s 100

Proceeding commenced in central registry

s 4AA ins 2010 No. 26 s 101

Consent jurisdiction

s 4A ins 1998 No. 20 s 27 sch 2
amd 2004 No. 11 s 596 sch 1

Abandonment of excess etc.

s 5 (prev s 4(2)) amd 1954 3 Eliz 2 No. 32 s 2(a); 1976 No. 19 s 17(a); 1982 No. 51 s 7; 1989 No. 40 s 19; 1993 No. 39 s 4
renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2; 1997 No. 38 s 73; 2010 No. 26 s 102

Proceeding started in wrong court

s 5A ins 2002 No. 34 s 37
om 2011 No. 45 s 170

Splitting debt by giving bills etc.

s 6 (prev s 4(3)) amd 1954 3 Eliz 2 No. 32 s 2(a); 1976 No. 19 s 17(a); 1982 No. 51 s 7; 1989 No. 40 s 19; 1993 No. 39 s 4
renum 1993 No. 39 s 3 sch
amd 1997 No. 38 s 73; 2010 No. 26 s 103

Title to land etc.

s 7 (prev s 4(4)) renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2

Infants

s 8 (prev s 4(5)) amd 1974 No. 57 s 8 sch
renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2

Executors etc.

s 9 (prev s 4(6)) renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2

Corporations

s 10 (prev s 4(7)) renum 1993 No. 39 s 3 sch
amd 2001 No. 45 s 29 sch 3

Plaint when equitable claim

s 11 (prev s 4(8)) renum 1993 No. 39 s 3 sch

When Magistrates Court has no jurisdiction, case to be struck out

prov hdg amd 1995 No. 23 s 17 sch 2
s 12 (prev s 4(9)) renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2
om 1998 No. 20 s 27 sch 2

Actions for small debts

s 13 (prev s 7A) ins 1975 No. 23 s 5
amd 1982 No. 51 s 7; 1989 No. 40 s 20; 1995 No. 23 s 17 sch 2
renum and reloc 1995 No. 23 s 17 sch 2

om 1998 No. 20 s 27 sch 2

PART 3—MAGISTRATES COURT

pt hdg ins 1995 No. 23 s 17 sch 2

Magistrates Courts to be courts of record

s 14 prov hdg amd 1995 No. 23 s 17 sch 2

Business of Magistrates Court

s 14A ins 2011 No. 45 s 171

Process returnable in registry where issued but effective throughout State

s 14B ins 2011 No. 45 s 171

In what Magistrates Courts actions to be brought

prov hdg amd 1995 No. 23 s 17 sch 2

s 15 amd 1995 No. 23 s 17 sch 2

Constitution of Magistrates Courts

prov hdg amd 1995 No. 23 s 17 sch 2

s 16 amd 1954 3 Eliz 2 No. 32 s 3; 1964 No. 32 s 3 sch

sub 1975 No. 23 s 4

amd 1995 No. 23 s 17 sch 2; 1998 No. 20 s 27 sch 2

Officers of Magistrates Court

s 17 prev s 17 ins 1995 No. 23 s 24

om R2 (see RA s 37)

PART 4—PRACTICE AND PROCEDURE

pt hdg ins 1995 No. 23 s 17 sch 2

Court appearance

prov hdg amd 2004 No. 11 s 596 sch 1

s 18 amd 1995 No. 23 s 17 sch 2; 2004 No. 11 s 596 sch 1

sub 2011 No. 45 s 173

Laws of evidence

prov hdg sub 1995 No. 23 s 17 sch 2

s 19 amd 1954 3 Eliz 2 No. 32 s 4; 1975 No. 23 s 6; 1982 No. 51 s 7; 1989 No. 40

s 21; 1993 No. 39 s 5; 1998 No. 20 s 27 sch 2

Evidence

s 20 (prev s 10(2)) renum 1993 No. 39 s 3 sch

amd 1995 No. 23 s 17 sch 2

PART 5—ADR PROCESSES

pt hdg ins 1995 No. 23 s 19

om 2011 No. 45 s 174

Division 1—Preliminary

div hdg ins 1995 No. 23 s 19

om 2011 No. 45 s 174

Objects of part

s 21 ins 1995 No. 23 s 19

om 2011 No. 45 s 174

Application of pt 5

s 21A ins 2007 No. 23 s 58
om 2011 No. 45 s 174

Division 2—Important terms

div hdg ins 1995 No. 23 s 19
om 2011 No. 45 s 174

ADR process

s 22 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Mediation

s 23 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Case appraisal

s 24 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Division 3—Establishment of ADR processes

div hdg ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Approval of mediators

s 25 ins 1995 No. 23 s 19
amd 2002 No. 34 s 36 sch 3
om 2010 No. 42 s 156

Approval of case appraisers

s 26 ins 1995 No. 23 s 19
amd 2002 No. 34 s 36 sch 3
om 2010 No. 42 s 156

ADR register

s 27 ins 1995 No. 23 s 19
amd 1997 No. 38 s 74; 2002 No. 34 s 36 sch 3
om 2010 No. 42 s 156

Parties may agree to ADR process

s 28 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Court may consider and order reference to ADR process

s 29 ins 1995 No. 23 s 19
amd 1997 No. 38 s 75; 1999 No. 66 s 25; 2000 No. 46 s 3 sch
om 2011 No. 45 s 174

Parties must attend at ADR process if Magistrates Court orders

s 30 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Procedure at case appraisal

s 31 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Subpoenas

s 32 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Division 4—Party unable to pay share of costs

div hdg ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Party unable to pay share of costs

s 33 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Division 5—What to do when ADR process is finished

div hdg ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Mediated resolution agreement

s 34 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Mediator to file certificate

s 35 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Case appraiser to file certificate and decision

s 36 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Orders giving effect to mediation agreement

s 37 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Orders giving effect to case appraiser's decision

s 38 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Division 6—Confidentiality, protection and immunity

div hdg ins 1995 No. 23 s 19
om 2011 No. 45 s 174

ADR convenors to maintain secrecy

s 39 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Ordinary protection and immunity allowed

s 40 ins 1995 No. 23 s 19
om 2011 No. 45 s 174

Admissions made to ADR convenors

s 41 ins 1995 No. 23 s 19

om 2011 No. 45 s 174

Division 7—Miscellaneous

div hdg ins 1995 No. 23 s 19
om 2010 No. 42 s 158

Revocation of approval as mediator or case appraiser

s 42 ins 1995 No. 23 s 19
amd 2002 No. 34 s 36 sch 3
om 2010 No. 42 s 158

PART 5A—PROCESSES FOR EMPLOYMENT CLAIMS

pt hdg ins 2007 No. 23 s 59

Division 1—Preliminary

div hdg ins 2007 No. 23 s 59

Object of pt 5A

s 42A ins 2007 No. 23 s 59

Application of pt 5A

s 42B ins 2007 No. 23 s 59
amd 2009 No. 49 s 70

Decision of Magistrates Court about whether claim is an employment claim

s 42C ins 2007 No. 23 s 59

Division 2—Conciliation of disputes

div hdg ins 2007 No. 23 s 59

Subdivision 1—What is conciliation

sdiv hdg ins 2007 No. 23 s 59

Meaning of “conciliation process”

s 42D ins 2007 No. 23 s 59

Functions of conciliator

s 42E ins 2007 No. 23 s 59
amd 2010 No. 42 s 154 sch

Subdivision 2—Starting conciliation process

sdiv 2 (ss 42F–42G) ins 2007 No. 23 s 59

Subdivision 3—Conduct of conciliation process

sdiv 3 (ss 42H–42K) ins 2007 No. 23 s 59

Subdivision 4—Procedure for finishing conciliation process

sdiv 4 (ss 42L–42N) ins 2007 No. 23 s 59

Subdivision 5—Confidentiality, protection and immunity

sdiv 5 (ss 42O–42R) ins 2007 No. 23 s 59

Subdivision 6—Approval of conciliators

sdiv hdg ins 2007 No. 23 s 59

Approval of members of industrial relations commission

prov hdg amd 2010 No. 42 s 154 sch
s 42S ins 2007 No. 23 s 59
amd 2010 No. 42 s 154 sch

Approval of other persons by Chief Magistrate

s 42T ins 2007 No. 23 s 59 (amd 2007 No. 55 s 54 sch 1)

Revocation of approval

s 42U ins 2007 No. 23 s 59

Appeal against refusal to approve as, or revocation of approval of, conciliator

s 42V ins 2007 No. 23 s 59

Payment of conciliators

s 42W ins 2007 No. 23 s 59

Conciliation register

s 42X ins 2007 No. 23 s 59

Division 3—Special provisions for proceedings heard in Magistrates Court

div 3 (ss 42Z–42ZC) ins 2007 No. 23 s 59

PART 6—JUDGMENTS, NEW TRIALS, APPEALS AND RELATED MATTERS

pt hdg ins 1995 No. 23 s 17 sch 2

Judgments to be final

s 43 amd 1976 No. 19 s 18; 1989 No. 40 s 22; 1993 No. 39 s 6; 1995 No. 23 s 17
sch 2; 2010 No. 42 s 154 sch

New trial

s 44 (prev s 11(2)) renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2

Appeal

s 45 (prev s 11(3)) amd 1954 3 Eliz 2 No. 32 s 5; 1982 No. 51 s 7; 1988 No. 7 s
14(a)
renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2; 1996 No. 79 s 87; 1999 No. 19 s 3 sch; 1999 No.
89 s 8 sch; 2004 No. 11 s 596 sch 1; 2010 No. 26 s 104

Limitation on appeal if simplified procedures apply

prov hdg amd 2009 No. 24 s 1561(1)
s 45A ins 1998 No. 20 s 27 sch 2
amd 1999 No. 66 s 26; 2009 No. 24 s 1561(2)–(3)

Special case stated

prov hdg amd 1995 No. 23 s 17 sch 2
s 46 (prev s 11(4)) amd 1988 No. 7 s 14(b)
renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2; 1999 No. 19 s 3 sch

Jurisdiction of the District Court

prov hdg amd 1999 No. 19 s 3 sch

s 47 (prev s 11(5)) amd 1988 No. 7 s 14(c)
renum 1993 No. 39 s 3 sch
amd 1999 No. 19 s 3 sch; 2010 No. 42 s 154 sch

No appeal in action for small debt etc.

prov hdg ins 1993 No. 39 s 3 sch
s 48 (prev s 11(6)) ins 1975 No. 23 s 7
renum 1993 No. 39 s 3 sch
om 1998 No. 20 s 27 sch 2

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

s 49 ins 1995 No. 23 s 20
om 2010 No 42 s 157

PART 7—MISCELLANEOUS

pt hdg ins 1995 No. 23 s 17 sch 2

Contempt

s 50 ins 1975 No. 23 s 8
amd 1995 No. 23 s 17 sch 2
sub 1998 No. 20 s 27 sch 2
amd 1999 No. 66 s 27; 2010 No. 42 s 154 sch

Transferred proceeding

s 51 ins 1975 No. 23 s 9
sub 1998 No. 20 s 27 sch 2

Publication of particulars of minor debt claims

prov hdg amd 1998 No. 20 s 27 sch 2
s 52 ins 1975 No. 23 s 10
amd 1990 No. 80 s 3 sch 6; 1998 No. 20 s 27 sch 2; 1999 No. 66 s 28
om 2009 No. 24 s 1562

Action against officers

s 53 amd 1974 No. 75 s 4 sch; 1995 No. 23 s 17 sch 2

Fees and fines to be paid to consolidated fund

s 55 (prev s 13(2) 1st sentence) renum 1993 No. 39 s 3 sch

Fines, how to be enforced

s 56 (prev s 13(2) 2nd sentence) renum 1993 No. 39 s 3 sch
amd 1995 No. 23 s 17 sch 2

Procedure of court

s 57 ins 1995 No. 23 s 21

Annual report

s 57A ins 2002 No. 34 s 38

Finance

s 57B ins 2011 No. 45 s 175

PART 8—RULES OF COURT

pt hdg ins 1995 No. 23 s 17 sch 2
om 1998 No. 20 s 27 sch 2

Regulation-making power

s 58 prev s 58 amd 1989 No. 40 s 23; 1993 No. 39 s 3 sch
sub 1995 No. 23 s 22
amd 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2
pres s 58 ins 2007 No. 55 s 54 sch 1

PART 9—VALIDATIONS, SAVINGS AND TRANSITIONAL

pt hdg ins 1995 No. 23 s 17 sch 2
sub 1997 No. 38 s 76

References to Small Debts Court

s 59 ins 1993 No. 39 s 3 sch

**Transitional provision for Civil and Criminal Jurisdiction Reform and
Modernisation Amendment Act 2010**

s 60 prev s 60 ins 1993 No. 39 s 3 sch
sub 1995 No. 23 s 23
exp 12 April 1998 (see prev s 60(5))
AIA s 20A applies (see prev s 60(4))
om 1998 No. 20 s 27 sch 2
pres s 60 ins 2010 No. 26 s 105

Outdated references

s 61 prev s 61 ins 1997 No. 38 s 77
exp 2 August 1997 (see s 61(3))
pres s 61 ins 2011 No. 45 s 176

Validation—acting deputy registrars

s 62 ins 1997 No. 38 s 77
exp 2 August 1997 (see s 62(3))

SCHEDULE—SUBJECT MATTER FOR RULES

sch hdg ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

PART 1—GENERAL

pt hdg ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Jurisdiction with consent

s 1 ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Jurisdiction for recovery of possession of land

s 2 ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Powers etc of registrars and other officers

- s 3** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Sitting of Magistrates Courts

- s 4** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Starting, and transferring, proceedings

- s 5** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Summonses

- s 6** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

New trials, appeals and evidence

- s 7** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Proceedings after death or insolvency

- s 8** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Keeping records by registrars

- s 9** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Referral to arbitration

- s 10** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Service of documents

- s 11** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Costs

- s 12** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Fees

- s 13** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Forms

- s 14** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Contempt

- s 15** ins 1995 No. 23 s 25
om 1998 No. 20 s 27 sch 2

Registration and enforcement of adjudicators' orders

- s 16** ins 1997 No. 28 s 295 sch 3

om 1998 No. 20 s 27 sch 2

PART 2—ADR PROCESSES

pt 2 (ss 1–10) ins 1995 No. 23 s 25

om 1998 No. 20 s 27 sch 2

7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

8 Table of renumbered provisions

under the Reprints Act 1992 s 43 as required by the Magistrates Courts Act 1921 s 17
[Reprint No. 2]

| Previous | Renumbered as |
|-----------|---------------|
| 4A | 5 |
| 4B | 6 |
| 4C | 7 |
| 4D | 8 |
| 4E..... | 9 |
| 4F..... | 10 |
| 4G | 11 |
| 4H | 12 |
| 4I | 13 |
| 5 | 14 |
| 6 | 15 |
| 7 | 16 |
| 8 | 17 |
| 9 | 18 |
| 10..... | 19 |
| 10A | 20 |
| 10B | 21 |
| 10C | 22 |
| 10D | 23 |
| 10E..... | 24 |
| 10F..... | 25 |
| 10G | 26 |
| 10H | 27 |
| 10I | 28 |
| 10J | 29 |
| 10K | 30 |

| Previous | Renumbered as |
|-----------|---------------|
| 10L..... | 31 |
| 10M..... | 32 |
| 10N..... | 33 |
| 10O..... | 34 |
| 10P..... | 35 |
| 10Q..... | 36 |
| 10R..... | 37 |
| 10S..... | 38 |
| 10T..... | 39 |
| 10U..... | 40 |
| 10V..... | 41 |
| 10W..... | 42 |
| 11..... | 43 |
| 11AA..... | 44 |
| 11AB..... | 45 |
| 11AC..... | 46 |
| 11AD..... | 47 |
| 11AE..... | 48 |
| 11AF..... | 49 |
| 11A..... | 50 |
| 11B..... | 51 |
| 11C..... | 52 |
| 12..... | 53 |
| 13..... | 54 |
| 13A..... | 55 |
| 13B..... | 56 |
| 13C..... | 57 |
| 14..... | 58 |
| 15..... | 59 |
| 16..... | 60 |

© State of Queensland 2012