

LOCAL COURTS ACT, 1982, No. 164

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 164, 1982.

An Act to provide for Local Courts within New South Wales and for the appointment of Magistrates and Clerks of those Courts; and for other purposes. [Assented to, 24th December, 1982.]

See also Justices (Local Courts) Amendment Act, 1982; Courts of Petty Sessions (Civil Claims) Further Amendment Act, 1982; Statutory and Other Offices Remuneration (Local Courts) Amendment Act, 1982; Miscellaneous Acts (Local Courts) Amendment Act, 1982.

Local Courts.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Local Courts Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.
(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

3. This Act is divided as follows:—
PART I.—PRELIMINARY—*ss.* 1–5.
PART II.—LOCAL COURTS OF NEW SOUTH WALES—*ss.* 6–11.
PART III.—MAGISTRATES—*ss.* 12–25.
PART IV.—MISCELLANEOUS—*ss.* 26–28.
SCHEDULE 1.—SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—
"appointed day" means the day appointed and notified under section 2 (2);

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“Chief Magistrate” means the person appointed under section 14 (1) to be the Chief Magistrate of the Local Courts;

“Court” means a Local Court established under section 6 (1);

“Deputy Chief Magistrate” means a person appointed under section 15 (1) to be a Deputy Chief Magistrate of the Local Courts;

“justice” means a Justice of the Peace;

“Magistrate” means a person appointed under section 12 (1) to be a Magistrate;

“prescribed office” means the office of Clerk of a Local Court and any other office prescribed for the purposes of this definition;

“regulation” means a regulation made under this Act.

(2) A reference in this Act to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) A reference in this Act to—

- (a) an Act, other than a reference to this Act, includes a reference to an Act of the Commonwealth; and
- (b) a Magistrate who has limited tenure is a reference to a Magistrate whose term of office is specified under section 13 (1) in the commission by which he was appointed.

(4) A Magistrate is not the holder of a prescribed office for the purposes of this Act by reason of the operation of section 18 of the Justices Act, 1902.

Savings and transitional provisions.

- 5. Schedule 1 has effect.
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PART II.

LOCAL COURTS OF NEW SOUTH WALES.

Establishment of Courts and appointment of places and districts.

- 6. (1)** The Governor may, by order published in the Gazette—
- (a) establish Local Courts and appoint the place at and the district for which any such Court shall be held; and
 - (b) abolish any Court established, or alter any place or district appointed, under paragraph (a).

(2) Notwithstanding the provisions of any other Act, the alteration of the place at or the district for which a Court shall be held shall not affect any proceedings commenced in the Court before the making of the alteration, and the proceedings may be continued and completed, and any judgment or order given or made in respect thereof enforced, as if the alteration had not been made.

Jurisdiction.

7. (1) Every Court shall have the same jurisdiction, civil and criminal, as Courts of Petty Sessions possessed in New South Wales immediately before the appointed day.

(2) Courts shall have the jurisdiction conferred or imposed on them by or under any Act or other law.

Composition of a Court.

8. Except as may be otherwise provided by or under any other Act or law, a Court shall be constituted by a Magistrate sitting alone or 2 or more justices.

Abolition of Courts of Petty Sessions.

9. Courts of Petty Sessions are abolished.

Local Courts.

Clerks of the Local Courts.

- 10. (1)** There shall be a Clerk of the Local Court for each Local Court.
- (2)** The Clerk of a Local Court shall be—
- (a)** appointed by the Governor under and subject to the Public Service Act, 1979; or
- (b)** the holder of an office or position—
- (i)** who was appointed to that office or position otherwise than under and subject to that Act; and
- (ii)** who is appointed by the Governor to be Clerk of the Local Court so long as he holds that office or position.
- (3)** A person holding the office of Clerk of a Local Court shall be deemed to vacate that office when the appointment by the Governor of another person to hold that office takes effect.
- (4)** The Minister may, by order in writing, appoint a person to act in the office of a Clerk of a Local Court during—
- (a)** an absence from duty of the Clerk of the Local Court; or
- (b)** a vacancy of not more than 6 months' duration in the office of that Clerk.
- (5)** A person appointed for the time being under subsection (4) shall, while he is acting in the office of a Clerk of a Local Court, have and may exercise all of the functions of that office.
- (6)** Any act, matter or thing done by a person while purporting to exercise a function conferred on him by subsection (5) is not ineffective or unlawful by reason only that either of the circumstances referred to in subsection (4) (a) and (b) did not exist when the act, matter or thing was done.
- (7)** Any act, matter or thing done by a person while he is acting in the office of a Clerk of a Local Court shall be deemed to have been done by the Clerk of the Local Court.

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Sittings of Local Courts.

11. (1) A Court shall be held at each of the places appointed under section 6 (1).

(2) Arrangements for the sittings of Courts, including the nomination of the Magistrates to sit at particular places at which Courts are required to be held, shall be in accordance with the directions of the Chief Magistrate.

(3) A direction given under subsection (2) may provide for—

- (a) the establishment of circuits comprised of specified places at which, districts for which, or other parts of New South Wales within which, Courts are required to be held; or
- (b) the exercise by Magistrates of their functions, at specified times or during specified periods, at different places or within different districts or other parts of New South Wales.

(4) A Magistrate shall comply with any direction which relates to the Magistrate given under subsection (2) by the Chief Magistrate.

PART III.**MAGISTRATES.****Appointment of, and qualifications for, Magistrates.**

12. (1) The Governor may, by commission under the public seal of the State, appoint any qualified person to be a Magistrate.

(2) A person is qualified to be appointed as a Magistrate if he is, or is eligible to be admitted as—

- (a) a barrister or solicitor of the Supreme Court of New South Wales;
or
- (b) a barrister or solicitor, or a barrister and solicitor, of—
 - (i) any Court of any other State, or of any Territory, of Australia; or

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(ii) the High Court of Australia.

(3) A Magistrate shall, while he holds office as such, be deemed to have been appointed as a justice and a Stipendiary Magistrate.

(4) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a Magistrate and a Magistrate shall not, in his capacity as a Magistrate, be subject to those provisions during his term of office as a Magistrate.

Temporary and certain other appointments.

13. (1) Where the Governor considers it appropriate that a Magistrate should be appointed for a particular term of office, the Governor may, in the commission of the Magistrate's appointment—

- (a) by reference to dates, specify the term of office for which the Magistrate is appointed; and
- (b) fix terms and conditions (including terms and conditions requiring him to exercise his functions at a particular place) subject to which the Magistrate shall serve in his office.

(2) The Governor may, under and subject to section 12, appoint the holder of a prescribed office to be a Magistrate.

(3) The commission of appointment of a person who is to hold the office of a Magistrate and a prescribed office shall be endorsed with a statement to the effect that the commission is not in force if the person ceases to hold the prescribed office.

(4) While he is the holder of a prescribed office, a Magistrate is not eligible to hold the office of Chief Magistrate or Deputy Chief Magistrate.

The Chief Magistrate.

14. (1) The Governor may, by the commission of a person's appointment as a Magistrate or by a subsequent commission under the public seal of the State, appoint a Magistrate to be Chief Magistrate of the Local Courts.

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(2) The Chief Magistrate shall hold the office of Chief Magistrate so long as he holds office as a Magistrate otherwise than pursuant to section 21 (1).

(3) With the approval of the Governor, the Chief Magistrate may resign his office of Chief Magistrate without resigning his office of Magistrate.

(4) The Chief Magistrate may require specified functions of Magistrates to be exercised by specified Magistrates or Magistrates of a specified class, and any Magistrate of whom a requirement is made under this subsection shall comply with the requirement.

Deputy Chief Magistrates.

15. (1) The Governor may, by the commission of a person's appointment as a Magistrate or by a subsequent commission under the public seal of the State, appoint a Magistrate to be a Deputy Chief Magistrate of the Local Courts.

(2) More than one person may hold the office of Deputy Chief Magistrate at any one time.

(3) A Deputy Chief Magistrate shall hold the office of Deputy Chief Magistrate so long as he holds office as a Magistrate otherwise than pursuant to section 21 (1).

(4) With the approval of the Governor, a Deputy Chief Magistrate may resign his office of Deputy Chief Magistrate without resigning his office of Magistrate.

(5) A Deputy Chief Magistrate shall, in addition to exercising his functions as a Magistrate, exercise such other functions as the Chief Magistrate may direct.

(6) A Deputy Chief Magistrate nominated for the purposes of this subsection by an order in writing of the Minister (which order the Minister is hereby authorised to make) may act in the office of the Chief Magistrate during—

- (a) an absence from duty of the Chief Magistrate; or
- (b) a vacancy in the office of Chief Magistrate.

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(7) The Deputy Chief Magistrate nominated for the time being under subsection (6) shall, while he is acting in the office of the Chief Magistrate, have and may exercise all of the functions of that office.

(8) Any act, matter or thing done by a Deputy Chief Magistrate while purporting to exercise a function conferred on him by subsection (7) is not ineffective or unlawful by reason only that either of the circumstances referred to in subsection (6) (a) and (b) did not exist when the act, matter or thing was done.

(9) Any act, matter or thing done by a Deputy Chief Magistrate while he is acting in the office of the Chief Magistrate shall be deemed to have been done by the Chief Magistrate.

Oaths to be taken by Magistrates.

16. (1) A person appointed under section 12 (1) shall not exercise the functions of a Magistrate, or of the Chief Magistrate or a Deputy Chief Magistrate, unless he has—

- (a) taken and subscribed the prescribed oaths; or
- (b) made and subscribed solemn affirmations in the form of those oaths,

and has transmitted them to the Minister.

(2) An oath or affirmation referred to in subsection (1) may be taken or made before and may be administered and received by—

- (a) a Judge of the Supreme Court or of the District Court of New South Wales;
- (b) except where the oath or affirmation is taken or made by the Chief Magistrate—the Chief Magistrate; or
- (c) the holder of an office prescribed for the purposes of this paragraph.

(3) A Magistrate who does not, within the period of 3 months after his appointment as such—

- (a) take the oaths or make the affirmations referred to in subsection (1); and

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(b) transmit them to the Minister,
ceases to hold office as a Magistrate when that period ends.

Jurisdiction of Magistrates.

17. (1) Except as may be otherwise provided by or under this or any other Act or the regulations—

- (a) a Magistrate may exercise the functions of his office of Magistrate at any place within New South Wales; and
- (b) each Magistrate shall have the same jurisdiction and may exercise the same functions.

(2) Any act, matter or thing done by a Magistrate while purporting to exercise a function of his office of Magistrate is not ineffective or unlawful by reason only of any contravention by him of section 11 (4), 14 (4), 15 (5), 22 (3) or 23 (1) or (3).

Magistrate's tenure.

18. (1) Subject to this Act, a Magistrate shall hold his office during ability and good behaviour.

(2) The Governor may remove a Magistrate from his office—

- (a) for incompetence, misbehaviour or contravention of the terms and conditions of his service; or
- (b) if the Magistrate—
 - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
 - (ii) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

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- (iii) is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- (iv) being the Chief Magistrate, absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause; or
- (v) not being the Chief Magistrate or the holder of a prescribed office, absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave to which he is entitled under the terms and conditions of service applicable to him, unless his absence is occasioned by illness or other unavoidable cause.

(3) The Governor may retire a Magistrate from his office after he attains the age of 60 years and before he attains the age of 65 years—

- (a) where he is the Chief Magistrate—on the recommendation of the Minister; or
- (b) in any other case—on the recommendation of the Chief Magistrate.

Suspension and retirement from office in certain cases.

19. (1) Where the Minister is of the opinion that a Magistrate may be physically or mentally unfit to exercise efficiently the functions of his office of Magistrate, the Minister may, by order in writing served on the Magistrate, suspend the Magistrate from acting in that office for a period specified in the order and commencing with the date on which the order is served.

(2) An order served under subsection (1) has no force or effect unless it requires the person on whom it is served to undergo a medical examination by the Government Medical Officer, within the meaning of the

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Superannuation Act, 1916, at a time and place specified in the order, being a time occurring not later than 14 days after the date on which the order is served.

(3) Where a person on whom an order has been served under subsection (1)—

(a) without reasonable cause, fails to attend—

(i) at the time and place specified in the order under subsection (2); or

(ii) at that place at a subsequent time agreed upon by the person under subsection (4); or

(b) having so attended, fails to submit himself to such examination as is required by the Government Medical Officer at that place,

the person may, for the purposes of subsection (5), be treated as being permanently unfit to exercise the functions of a Magistrate and subsection (6) does not apply in respect of him.

(4) The Government Medical Officer who has examined a person at a time fixed by an order served on the person under subsection (1), or at a subsequent time agreed upon by the person and the Officer, shall, forthwith after the examination has been concluded, forward a report on the result of his examination to the Minister and a copy of that report to the person examined.

(5) Where an order has been served on a person under subsection (1), the Minister may—

(a) after he has considered—

(i) the contents of the report, if any, made out by the Government Medical Officer on the result of his examination of the person and forwarded to the Minister under subsection (4); and

(ii) any representations made to the Minister by the person within 14 days of the date on which a copy of the report, if any, was forwarded to the person under subsection (4); and

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(b) if he is of the opinion—

- (i) that the person is unfit to exercise or incapable of exercising the functions of a Magistrate; and
- (ii) that the person's unfitness or incapacity is likely to be of a permanent nature,

recommend to the Governor that the person be retired from his office of Magistrate and the Governor may retire the person from that office.

(6) Except as provided by section 18 (3), a person may not be retired from his office of Magistrate unless—

- (a) if he is a person who may be so retired under a provision of any other Act, he is retired under that provision; or
- (b) in any other case, the Government Medical Officer certifies in writing—
 - (i) that the person is an invalid or is physically or mentally incapable of performing his duties; and
 - (ii) that the person's invalidity or incapacity is likely to be of a permanent or recurrent nature.

(7) A person who, by an order served on him under subsection (1), is suspended from acting in the office of Magistrate—

- (a) shall not exercise any of the functions of a Magistrate, or of the Chief Magistrate or a Deputy Chief Magistrate;
- (b) subject to paragraph (a), shall be deemed to continue to hold his office of Magistrate and, where he held the additional office of Chief Magistrate or Deputy Chief Magistrate immediately before he was so suspended, that additional office; and
- (c) shall be deemed to be absent from duty by reason of unavoidable cause, within the meaning of section 18 (2) (b).

(8) Nothing in this section affects the operation, with respect to the retirement of Magistrates, of any provision of any other Act.

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Vacation of office.

20. Subject to this and any other Act, a Magistrate shall be deemed to have vacated his office of Magistrate if—

- (a) he dies;
- (b) he resigns that office by writing under his hand served on the Minister, and the Governor accepts his resignation;
- (c) after attaining the age of 60 years, he signifies his desire to retire from that office by writing under his hand served on the Minister, and the Governor consents to his retirement;
- (d) he ceases to hold that office by the operation of section 16 (3);
- (e) he is removed from that office by the Governor under section 18 (2);
- (f) he is retired from that office by the Governor under section 18 (3) or 19 (5) or under a provision of any other Act under which he may be so retired;
- (g) he retires from that office under a provision of any other Act under which he may so retire;
- (h) he attains the age of 65 years;
- (i) where he is a Magistrate who has limited tenure, the term of his office specified in the commission of his appointment expires without his having been appointed to hold the office of Magistrate on and from the day on which that term expires; or
- (j) where he is the holder of a prescribed office, he ceases to hold the prescribed office without his having been appointed to hold the office of Magistrate on and from the day on which he ceases to hold the prescribed office.

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Additional terms of office.

21. (1) Where a former Magistrate has vacated his office by reason of section 20 (c) or (g), the Governor may, by notification published in the Gazette and with the consent in writing of the former Magistrate, reinstate the former Magistrate in his former office of Magistrate for a period, not continuing past the date on which the former Magistrate will attain the age of 65 years, specified in the notification.

(2) During the period for which a former Magistrate is reinstated in his former office of Magistrate under subsection (1)—

- (a) subject to this Act, he shall be deemed to be a Magistrate and to hold office as such;
- (b) section 16 does not apply to or in respect of him; and
- (c) where he has vacated his former office by reason of section 20 (g), he shall be deemed not to be an employee for the purposes of the Superannuation Act, 1916, section 94 of that Act excepted.

(3) Subject to any other Act, while a person holds the office of Magistrate by reason of the publication of a notification under subsection (1), he shall be deemed to hold any other office specified in the notification, being an office which he held—

- (a) when he last held the office of Magistrate before his reinstatement; and
- (b) by reason of his being a Magistrate when he was appointed to, or nominated for, that other office.

(4) Where a notification is published in the Gazette under subsection (1), a statement in the notification that a consent referred to in that subsection has been given shall be conclusive evidence of the giving of that consent.

(5) Nothing in this section affects the operation of section 104A or 104B of the Justices Act, 1902.

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Conditions of service, generally.

22. (1) Subject to this and any other Act and the regulations, the terms and conditions of service of Magistrates shall be as determined by the Governor from time to time.

(2) The Governor may, under subsection (1), determine terms and conditions of service in relation to—

- (a) all Magistrates;
- (b) Magistrates of a specified class; or
- (c) all Magistrates, other than Magistrates of a specified class.

(3) A Magistrate shall not contravene any of the terms and conditions of service applicable to him.

Employment of Magistrates in other offices, etc.

23. (1) Except as provided by this section, a Magistrate shall devote the whole of his time to the duties of his office.

(2) A person may, with the approval of the Governor (which approval the Governor is hereby authorised to grant), hold and exercise the functions of the office of Magistrate and another office or appointment.

(3) Notwithstanding subsection (2), a Magistrate shall not practise as a barrister or solicitor for fee, gain or reward.

(4) Subsections (1) and (3) do not apply to a Magistrate who has limited tenure if he is declared to be exempt from the requirements of those subsections in the commission by which he was appointed.

(5) Subsection (1) does not apply to a Magistrate who is the holder of a prescribed office, and subsection (2) does not prevent any such Magistrate from holding his prescribed office without the approval of the Governor granted under that subsection.

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Remuneration.

24. (1) A Magistrate, other than a Magistrate referred to in subsection (2) or (3), is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) A Magistrate who has limited tenure is entitled to be paid—

- (a) such remuneration as the Governor considers appropriate; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(3) A Magistrate who is the holder of a prescribed office is entitled to be paid, in relation to his exercise of the functions of a Magistrate—

- (a) such remuneration, if any, as the Minister considers appropriate; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(4) The remuneration and allowances referred to in this section and payable to a Magistrate shall be paid to him so long as he continues to hold office as such.

Superannuation and certain other rights.

25. (1) Where a person was, immediately before his appointment as a Magistrate, an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, he shall retain any rights which have accrued or are accruing to him as such an officer or employee and he shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be such an officer or employee during his service as a Magistrate and, for the purposes of this subsection, his service as a Magistrate shall be deemed to be service for the purposes of that Act and the Public Service Act, 1979.

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(2) A Magistrate shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(3) A Magistrate who has limited tenure, not being a person to whom subsection (1) applies, shall be deemed not to be an employee for the purposes of the Superannuation Act, 1916, section 94 of that Act excepted.

(4) Nothing in this section affects the operation, with respect to Magistrates, of any provision of the Superannuation Act, 1916.

PART IV.

MISCELLANEOUS.

Directions as to procedure.

26. If the manner or form of procedure for taking any step in any proceedings is not prescribed by or under the Justices Act, 1902, the Local Courts (Civil Claims) Act, 1970, or any other law under which the step is to be taken or by the practice of Courts, a Court, on application made to it in such manner as it considers appropriate, may direct what manner or form of procedure is to be followed, and any step taken in accordance with a direction so given shall, for the purposes of the proceedings, be regular and sufficient.

Periodic reports.

27. The Chief Magistrate shall submit to the Minister, at such times and in respect of such periods as the Minister directs, and, subject to any such direction, at such times and in respect of such periods as the Chief Magistrate considers appropriate, reports setting forth—

(a) particulars of—

(i) the incidence of delays in Courts;

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- (ii) arrangements which have been made for the sittings of Courts; and
 - (iii) any matters relating to discipline which have arisen and which may have affected or may affect the availability of Magistrates or the disposal of business by Courts;
- (b) particulars of projected workloads in Courts and an assessment of the number of Magistrates which will, in the opinion of the Chief Magistrate, be available to meet those workloads; and
- (c) comments upon any other matters relating to Courts or Magistrates about which, in the opinion of the Chief Magistrate, the Minister should be advised or about which the Minister has requested to be advised by the Chief Magistrate.

Regulations.

28. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the terms and conditions of service of Magistrates;
- (b) providing for the classification of Magistrates by reference to grades or in any other manner;
- (c) fixing, or providing for the fixing of, the seniority of Magistrates; and
- (d) providing for the establishment of committees to advise the Chief Magistrate in relation to any matter arising out of the exercise by Magistrates of their functions or the administration of Courts.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors; or
 - (b) apply differently according to different factors of a specified kind,
- or may do any combination of those things.
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SCHEDULE 1.

(Sec. 5.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation: Sch. 1.

1. In this Schedule, "corresponding Court", in relation to a Court of Petty Sessions, means the Local Court required by clause 2 (2) to be held at the place at which the Court of Petty Sessions was required under section 5 (1) of the Justices Act, 1902, to be held immediately before the appointed day.

Former Courts of Petty Sessions to be Local Courts.

2. (1) All Courts of Petty Sessions which existed immediately before the appointed day shall be deemed to be Local Courts established under section 6 (1).

(2) The place at and the district for which each Court which is deemed to have been established by subclause (1) shall be held shall—

- (a) be the same place and district as was appointed under section 5 (1) of the Justices Act, 1902, in relation to the Court of Petty Sessions held at that place immediately before the appointed day; and
- (b) be deemed to have been appointed under section 6 (1).

Saving relating to abolition of Courts of Petty Sessions.

3. Any Act or other law which, if section 9 had not been enacted, would have applied, on or after the appointed day—

- (a) to or in respect of all Courts of Petty Sessions, shall apply to or in respect of all Local Courts as if Local Courts were Courts of Petty Sessions; or
- (b) to or in respect of a particular Court of Petty Sessions, shall apply to or in respect of the corresponding Court as if the corresponding Court were that Court of Petty Sessions.

Acts done by former Courts of Petty Sessions, etc.

4. (1) Any act, matter or thing done, before the appointed day, under any Act or other law—

- (a) by a stipendiary magistrate or a justice or justices constituting and exercising any of the functions of a Court of Petty Sessions—shall be deemed to have been done by a Magistrate or a justice or justices constituting and exercising a function of the corresponding Court;

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SCHEDULE 1—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) by a person exercising any of the functions of the chairman of the bench of stipendiary magistrates—shall be deemed to have been done by the Chief Magistrate;
- (c) by a person exercising any of the functions of a stipendiary magistrate, otherwise than when he constituted a Court of Petty Sessions—shall be deemed to have been done by a Magistrate;
- (d) by a person exercising any of the functions of a clerk of petty sessions at a particular Court of Petty Sessions—shall be deemed to have been done by the Clerk of the Local Court which is the corresponding Court; or
- (e) by a bailiff of a Court of Petty Sessions—shall be deemed to have been done by a bailiff of the corresponding Court.

(2) In subclause (1), a reference to an Act does not include a reference to the Courts of Petty Sessions (Civil Claims) Act, 1970.

(3) In subclause (1) (b), a reference to a person exercising any of the functions of the chairman of the bench of stipendiary magistrates includes a reference to a person exercising any of the functions of an office held by him under any other Act, where the person held that office by reason of his holding the office of chairman of the bench of stipendiary magistrates.

(4) In subclause (1) (c), a reference to a person exercising any of the functions of a stipendiary magistrate includes a reference to a person exercising any of the functions of—

- (a) the office, under the Coroners Act, 1980, of a coroner; or
- (b) an office held by him under any other Act,

where the person held that office by reason of his holding the office of a stipendiary magistrate.

(5) In subclause (1) (d), a reference to a person exercising any of the functions of a clerk of petty sessions at a particular Court of Petty Sessions includes a reference to a person exercising any of the functions of—

- (a) the office, under the Landlord and Tenant (Amendment) Act, 1948, of clerk of the Fair Rents Board, if any, at the place at which that Court of Petty Sessions was required to be held under the Justices Act, 1902; or
- (b) an office held by him under any other Act,

where the person held that office by reason of his holding the office of a clerk of petty sessions.

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SCHEDULE 1—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Savings relating to stipendiary magistrates.**

5. (1) In this clause, "former Magistrate" means a person who, immediately before the appointed day, was employed under the Public Service Act, 1979, in the position of stipendiary magistrate.

(2) A former Magistrate who—

(a) accedes to the office of a Magistrate on the appointed day; and

(b) immediately before the appointed day, held another office under any other Act (other than the office of chairman of the bench of stipendiary magistrates) by reason of his having been a stipendiary magistrate when he was appointed to, or nominated for, that other office,

shall not vacate that other office by reason only of his not having been a Magistrate when he was appointed to, or nominated for, that other office.

(3) Any former Magistrate who does not accede to the office of a Magistrate on the appointed day shall, if he has not attained the age of 60 years, be appointed to a position in the Public Service not lower in classification or salary than that which he held immediately before that day.

Saving relating to clerks of petty sessions.

6. A person who, immediately before the appointed day, held the office of clerk of petty sessions at a particular Court of Petty Sessions shall be deemed to have been appointed by the Governor as the Clerk of the Local Court which is the corresponding Court—

(a) where the person was employed under the Public Service Act, 1979, immediately before that day—under and subject to that Act: or

(b) in any other case—under section 10 (2) (b).

References to former Courts of Petty Sessions, etc.

7. (1) Except in so far as the context or subject-matter otherwise indicates or requires (and subject to the prescribed exceptions, if any), a reference in any other Act (whether that Act was assented to before, or is assented to on or after, the appointed day) or in any regulation, by-law, rule or other statutory instrument or in any other document, whether of the same or a different kind, to—

(a) Courts of Petty Sessions or Petty Sessions shall be read and construed as a reference to Local Courts established under section 6 (1);

Local Courts.

SCHEDULE 1—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) a particular Court of Petty Sessions shall be read and construed as a reference to the corresponding Court;
- (c) a stipendiary magistrate or police magistrate shall be read and construed as a reference to a Magistrate;
- (d) the chief stipendiary magistrate or the chairman of the bench of stipendiary magistrates shall be read and construed as a reference to the Chief Magistrate;
- (e) a clerk of petty sessions (other than the clerk of petty sessions at a particular Court of Petty Sessions) shall be read and construed as a reference to a Clerk of a Local Court; and
- (f) the clerk of petty sessions at a particular Court of Petty Sessions shall be read and construed as a reference to the Clerk of the Local Court which is the corresponding Court.

(2) In subclause (1), a reference to another Act does not include a reference to the Justices (Local Courts) Amendment Act, 1982, the Courts of Petty Sessions (Civil Claims) Further Amendment Act, 1982, or the Miscellaneous Acts (Local Courts) Amendment Act, 1982.

Regulations of a saving or transitional nature.

8. (1) The regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act, the Justices (Local Courts) Amendment Act, 1982, the Courts of Petty Sessions (Civil Claims) Further Amendment Act, 1982, or the Miscellaneous Acts (Local Courts) Amendment Act, 1982.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

Local Courts.

SCHEDULE 1—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(4) A provision made under subclause (1) shall, if the regulations so provide, have effect notwithstanding—

- (a) any other clause of this Schedule;
 - (b) Schedule 9 to the Justices (Local Courts) Amendment Act, 1982; and
 - (c) Schedule 2 to the Courts of Petty Sessions (Civil Claims) Further Amendment Act, 1982.
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