

**COURTS LEGISLATION (ACTING JUDGES)  
AMENDMENT ACT 1988 No. 10**

NEW SOUTH WALES



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**COURTS LEGISLATION (ACTING JUDGES) AMENDMENT ACT  
1988 No. 10**

NEW SOUTH WALES



**Act No. 10, 1988**

An Act to amend certain Acts with respect to the appointment of persons to act in certain judicial offices. [Assented to 21 June 1988]

*Courts Legislation (Acting Judges) Amendment 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Courts Legislation (Acting Judges) Amendment Act 1988.

**Commencement**

2. This Act commences on the date of assent.

**Amendment of courts legislation**

3. Each Act specified in Schedules 1-5 is amended as set out in those Schedules.

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**SCHEDULE 1—AMENDMENT OF THE SUPREME COURT ACT  
1970**

(Sec. 3)

(1) Section 37 (**Acting Judges**)—

(a) Section 37 (1)—

Omit “six months”, insert instead “12 months”.

(b) After section 37 (3), insert:

(4) A retired Judge of the Court or of another court in New South Wales (including a retired judicial member of the Industrial Commission) may be so appointed even though the retired Judge has reached the age of 70 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 72 years.

(5) The conditions or limitations specified in a commission under this section may exclude the whole or any part of the period of appointment from being regarded as a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges' Pensions Act 1953.

(2) Section 111 (**Appointment**)—

After section 111 (5), insert:

(6) A retired master may be appointed under subsection (2) as an acting master even though the retired master has reached the age of 70 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 72 years.

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**SCHEDULE 1—AMENDMENT OF THE SUPREME COURT ACT  
1970—continued**

**(3) Section 115 (Resignation, removal and tenure)—****(a) Section 115 (3)—**

Omit “(not extending beyond the day on which he attains the age of seventy years)”.

**(b) After section 115 (3), insert:**

(4) Except as provided by section 111 (6), the term for which an acting master holds office shall not extend beyond the day on which the master reaches the age of 70 years.

**SCHEDULE 2—AMENDMENT OF THE INDUSTRIAL  
ARBITRATION ACT 1940**

(Sec. 3)

**Section 14 (Industrial commission)—**

After section 14 (4), insert:

(4A) A retired judicial member of the commission, or a retired Judge of another court in New South Wales, may be appointed as an acting Judge under subsection (3) or (4) even though the retired member or Judge has reached the age of 70 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 72 years.

(4B) An appointment under subsection (3) or (4) may, in the case of the appointment of a person to act as a judicial member of the commission, be made subject to a condition that excludes the whole or any part of the period of appointment from being regarded as a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges' Pensions Act 1953.

**SCHEDULE 3—AMENDMENT OF THE LAND AND  
ENVIRONMENT COURT ACT 1979**

(Sec. 3)

**Section 11 (Acting Judges)—****(a) Section 11 (1)—**

Omit “6 months”, insert instead “12 months”.

**(b) After section 11 (3), insert:**

*Courts Legislation (Acting Judges) Amendment 1988*

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**SCHEDULE 3—AMENDMENT OF THE LAND AND ENVIRONMENT COURT ACT 1979—*continued***

(4) A retired Judge of the Court or of another court in New South Wales (including a retired judicial member of the Industrial Commission) may be so appointed even though the retired Judge has reached the age of 70 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 72 years.

(5) The conditions or limitations specified in a commission under this section may exclude the whole or any part of the period of appointment from being regarded as a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges' Pensions Act 1953.

**SCHEDULE 4—AMENDMENT OF THE DISTRICT COURT ACT 1973**

(Sec. 3)

**Section 18 (Acting Judges)—**

Omit section 18 (4) and (5), insert instead:

(4) A retired Judge of the Court or of another court in New South Wales (including a retired judicial member of the Industrial Commission) may be so appointed even though the retired Judge has reached the age of 70 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 72 years.

(5) The conditions or limitations specified in a commission under this section may exclude the whole or any part of the period of appointment from being regarded as a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges' Pensions Act 1953.

(6) A person appointed under this section may be appointed under the title of Acting Judge or Associate Judge.

**SCHEDULE 5—AMENDMENT OF THE COMPENSATION COURT ACT 1984**

(Sec. 3)

**Section 11 (Acting Chief Judge and acting Judges)—**

After section 11 (5), insert:

**SCHEDULE 5—AMENDMENT OF THE COMPENSATION COURT  
ACT 1984—*continued***

(6) A retired Judge of the Court or of another court in New South Wales (including a retired judicial member of the Industrial Commission) may be appointed as an acting Judge under subsection (4) even though the retired Judge has reached the age of 70 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 72 years.

(7) The conditions or limitations specified in a commission under subsection (4) may exclude the whole or any part of the period of appointment from being regarded as a period served by the person in a prior judicial office within the meaning of section 8 (2) of the Judges' Pensions Act 1953.

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