



New South Wales

Local Courts Amendment (Part-time Magistrates) Act 1999 No 69

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Local Courts Amendment (Part-time Magistrates) Act 1999 No 69

Act No 69, 1999

An Act to amend the *Local Courts Act 1982* to provide for the office of Magistrate to be held on a part-time basis; to amend certain Acts consequentially; and for other purposes. [Assented to 30 November 1999]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Courts Amendment (Part-time Magistrates) Act 1999*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Courts Act 1982 No 164

The *Local Courts Act 1982* is amended as set out in Schedule 1.

4 Consequential amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Local Courts Act 1982

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

limited tenure, in relation to the office of Magistrate, means a limitation imposed on the office under section 13.

part-time Magistrate means a person:

- (a) appointed to hold the office of Magistrate on a part-time basis, or
- (b) exercising the functions of the office of Magistrate on a part-time basis, as provided by an agreement referred to in section 12A, or
- (c) who, in accordance with section 8 of the *Liquor Act 1982*, becomes a Magistrate on becoming a licensing magistrate and who holds office as a licensing magistrate on a part-time basis under section 8 (6) (b) of that Act.

[2] Section 12 Appointment of, and qualifications for, Magistrates

Insert after section 12 (4):

- (5) A person's appointment as a Magistrate is taken to be an appointment on a full-time basis unless the appointment is expressed, in the commission by which the person was appointed, to be on a part-time basis.

[3] Section 12A

Insert after section 12:

12A Part-time arrangements

A Magistrate, although not appointed on a part-time basis, may, by agreement in writing entered into with the Chief Magistrate, exercise the functions of the office of Magistrate on a part-time basis.

[4] Sections 18 and 19

Omit the sections.

[5] Section 22 Conditions of service generally

Insert at the end of section 22:

- (2) This section extends to the terms and conditions to be included in any agreement referred to in section 12A.

[6] Section 23 Employment of Magistrates in other offices etc

Omit section 23 (3) and (4). Insert instead:

- (3) A Magistrate may not, however, practise as a barrister or solicitor for fee, gain or reward, and no approval under subsection (2) may be granted to permit it.
- (4) Subsection (1) does not prevent a person from holding office as and exercising the functions of a Magistrate on a part-time basis, but such a person must not, while so holding office:
 - (a) accept or continue to hold or discharge the duties of or be employed in any paid office in connection with any commercial business, or
 - (b) engage in or undertake any such business, whether as principal or agent, or
 - (c) engage in or continue in the private practice of any profession, occupation or trade, or enter into any employment, whether remunerated or not, with any person so engaged.
- (5) To the extent specified in the commission by which the Magistrate was appointed, subsections (1) and (3) do not apply to a Magistrate who has limited tenure.

[7] Schedule 1 Savings and transitional provisions

Insert at the end of clause 8 (1):

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[8] Schedule 1, clause 10

Insert after clause 9 of Schedule 1:

10 Remuneration of part-time Magistrates

Until a relevant determination is made and takes effect under the *Statutory and Other Offices Remuneration Act 1975*, a part-time Magistrate is entitled to be paid in accordance with the determination in force for the time being for Magistrates, but on a pro rata basis (according to time spent in service), as calculated by the Minister.

Schedule 2 Consequential amendment of other Acts

(Section 4)

2.1 Children's Court Act 1987 No 53

[1] Schedule 1 Provisions relating to Children's Magistrates

Insert after clause 2:

2A Conditions of service

A person holding office as Children's Magistrate is taken to hold the office on either a full-time or part-time basis, according to whether the person holds the office of Magistrate on a full-time or part-time basis under the *Local Courts Act 1982*.

[2] Schedule 2

Insert after Schedule 1:

Schedule 2 Savings and transitional provisions

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

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- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision 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, 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.

2 Remuneration of part-time Children's Magistrates

Until a relevant determination is made and takes effect under the *Statutory and Other Offices Remuneration Act 1975*, a Children's Magistrate holding office on a part-time basis is entitled to be paid in accordance with the determination in force for the time being for Children's Magistrates, but on a pro rata basis (according to time spent in service), as calculated by the Attorney General.

2.2 Coroners Act 1980 No 27

[1] Section 5 Appointment of coroners

Insert after section 5 (2):

- (3) A person holding office as coroner is taken to hold the office on either a full-time or part-time basis, according to whether the person holds the office of Magistrate on a full-time or part-time basis under the *Local Courts Act 1982*.

[2] Schedule 3 Savings and transitional provisions

Insert after clause 8:

9 Remuneration of part-time coroners

Until a relevant determination is made and takes effect under the *Statutory and Other Offices Remuneration Act 1975*, a coroner holding office on a part-time basis is entitled to be paid in accordance with the determination in force for the time being for coroners, but on a pro rata basis (according to time spent in service), as calculated by the Attorney General.

2.3 Industrial Relations Act 1996 No 17

[1] Section 381 Appointment of Chief and other Industrial Magistrates

Insert after section 381 (4):

- (5) A person holding office as Industrial Magistrate is taken to hold the office on either a full-time or part-time basis, according to whether the person holds the office of Magistrate on a full-time or part-time basis under the *Local Courts Act 1982*.

[2] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

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[3] Schedule 4, Part 7

Insert at the end of clause 39:

- (2) Until a relevant determination is made and takes effect under the *Statutory and Other Offices Remuneration Act 1975*, an Industrial Magistrate holding office on a part-time basis is entitled to be paid in accordance with the determination in force for the time being for Industrial Magistrates, but on a pro rata basis (according to time spent in service), as calculated by the Attorney General.

2.4 Liquor Act 1982 No 147

[1] Section 8 Appointment of licensing magistrates

Insert after section 8 (5):

- (6) A person holding office as licensing magistrate is taken to hold the office on a part-time basis:
 - (a) if, immediately before being appointed to the office, the person was a part-time Magistrate within the meaning of the *Local Courts Act 1982*, or

- (b) if the person became a Magistrate by virtue of being appointed to the office and:
 - (i) the person's appointment as a licensing magistrate is expressed, in the instrument by which the person is appointed, to be on a part-time basis, or
 - (ii) although not appointed on a part-time basis, the person, by agreement in writing entered into with the Chief Magistrate, exercises the functions of the office of licensing magistrate on a part-time basis.

[2] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[3] Schedule 1

Insert in Schedule 1 (with appropriate Part and clause number):

Part Local Courts Amendment (Part-time Magistrates) Act 1999

Remuneration of part-time licensing magistrates

Until a relevant determination is made and takes effect under the *Statutory and Other Offices Remuneration Act 1975*, a licensing magistrate holding office on a part-time basis is entitled to be paid in accordance with the determination in force for the time being for licensing magistrates, but on a pro rata basis (according to time spent in service), as calculated by the Attorney General.

2.5 Mining Act 1992 No 29

[1] Section 293 Appointment of chief warden and wardens

Insert after section 293 (3):

- (4) A person holding office as warden is taken to hold the office on either a full-time or part-time basis, according to whether the person holds the office of Magistrate on a full-time or part-time basis under the *Local Courts Act 1982*.

[2] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[Minister's second reading speech made in—
Legislative Council on 10 November 1999
Legislative Assembly on 24 November 1999]