

Act No. 10

## COURTS LEGISLATION (ACTING JUDGES) AMENDMENT BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Acts governing the major State courts so as—

- (a) to enable a retired Judge of any major State court to be appointed as an acting Judge of any of the other major State courts; and
- (b) to make consequential and other provisions in relation to the appointment of acting Judges.

---

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the day on which it receives the Royal Assent.

**Clause 3** is a formal provision that gives effect to the Schedules of amendments to the Supreme Court Act 1970, the Industrial Arbitration Act 1940, the Land and Environment Court Act 1979, the District Court Act 1973 and the Compensation Court Act 1984.

**Schedules 1-5** effect the amendments described below.

#### **Appointment of retired Judges as acting Judges**

The major State courts are the Supreme Court, the Industrial Commission, the Land and Environment Court and the Compensation Court.

The amendments enabling the appointment of retired Judges as acting Judges of these courts are made on a similar basis to those made by the District Court (Judges) Amendment Act 1987 No. 236 with respect to acting Judges of the District Court.

It will not matter that any intended appointee may have reached the age of 70 (or will reach that age before the appointment expires), but the appointments are to be limited to terms that do not take the appointee beyond the age of 72.

---

*Courts Legislation (Acting Judges) Amendment 1988*

---

**Uniformity of provisions governing appointments**

The opportunity has also been taken to achieve a degree of uniformity between the various Courts Acts as to the maximum term for which acting Judges may be appointed and as to pension entitlements arising from acting appointments generally.

In the case of the Compensation Court and the District Court, existing legislation provides for a maximum 12-month term. The Acts governing the Land and Environment Court and the Supreme Court are amended by the proposed Act to provide for a similar maximum term (instead of the present maximum 6-month term).

The District Court Act currently contains a provision that allows an acting Judge's commission, in an appropriate case, to be made subject to the condition that the whole or part of the acting term may be discounted as service in a "prior judicial office" when calculating service for assessment of a Judge's pension entitlements. (This has application only to persons who are at some time afterwards appointed to a judicial office.) The several other Courts Acts are amended so as to adopt this provision.

**Masters of the Supreme Court**

In relation to the Supreme Court, amendments are also made to Division 1 of Part 8 of the Supreme Court Act to allow a retired master to be appointed as an acting master of the Court.

**Judicial members of the Industrial Commission**

In the Industrial Arbitration Act, members of the Industrial Commission having the same rank and status as Supreme Court Judges are styled "judicial members" (rather than "Judges") of the Commission. The various Acts concerned, in so far as they provide for the appointment of acting Judges, are amended so as to remove any doubt that the reference to a "retired Judge" includes a reference to a person who has retired from office as a judicial member of the Commission.

---