

TASMANIA

**SUPREME COURT CIVIL PROCEDURE
AMENDMENT BILL 2004**

CONTENTS

PART 1 - PRELIMINARY

1. Short title
2. Commencement

PART 2 - SUPREME COURT ACT 1959 AMENDED

3. Principal Act
4. Section 5 amended (Tenure of office and terms of appointment of Master)
5. Section 5B repealed

**PART 3 - SUPREME COURT CIVIL PROCEDURE ACT
1932 AMENDED**

6. Principal Act
7. Section 191A amended (Withdrawal of matters from the Master)
8. Section 191B amended (Effect of, and appeal from, orders of the Master)
9. Section 197 amended (Power of judges to make Rules of Court)

**SUPREME COURT CIVIL PROCEDURE
AMENDMENT BILL 2004**

*(Brought in by the Minister for Justice and Industrial
Relations, the Honourable Judith Louise Jackson)*

A BILL FOR

**An Act to amend the *Supreme Court Act 1959* and
the *Supreme Court Civil Procedure Act 1932***

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the *Supreme Court Civil
Procedure Amendment Act 2004*.

Commencement

2. This Act commences on the day on which this Act
receives the Royal Assent.

PART 2 – SUPREME COURT ACT 1959 AMENDED

Principal Act

3. In this Part, the *Supreme Court Act 1959** is referred to as the Principal Act.

Section 5 amended (Tenure of office and terms of appointment of Master)

4. Section 5(1) of the Principal Act is amended by omitting “as the Governor determines” and substituting “and with such immunities as apply from time to time to puisne judges of the Court”.

Section 5B repealed

5. Section 5B of the Principal Act is repealed.

*No. 41 of 1959

**PART 3 – SUPREME COURT CIVIL PROCEDURE
ACT 1932 AMENDED**

Principal Act

6. In this Part, the *Supreme Court Civil Procedure Act 1932** is referred to as the Principal Act.

Section 191A amended (Withdrawal of matters from the Master)

7. Section 191A of the Principal Act is amended as follows:

- (a) by inserting “or in court” after “sitting in chambers”;
- (b) by inserting “or in court” after “judge in chambers”.

Section 191B amended (Effect of, and appeal from, orders of the Master)

8. Section 191B of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or in court” after “Master sitting in chambers”;
- (b) by inserting in subsection (1) “or in court” after “judge sitting in chambers”;
- (c) by inserting in subsection (2) “or in court” after “chambers”;

*No. 58 of 1932

- (d) by inserting the following subsections after subsection (2):

(3) The Master constitutes the Court for the purpose of the exercise of his or her powers and an appeal from a decision or order of the Master, whether given in court or in chambers, is to be an appeal by way of rehearing.

(4) On the hearing of an appeal from a decision or order of the Master, whether given in court or in chambers, a judge sitting alone, whether in court or in chambers, has the same jurisdiction and powers as the Full Court has in hearing an appeal against a decision or order of a judge.

Section 197 amended (Power of judges to make Rules of Court)

9. Section 197 of the Principal Act is amended as follows:

- (a) by omitting paragraph (f) from subsection (1) and substituting the following paragraph:
- (f) Empowering the Master to exercise all of the powers of the Court, including the exercise of inherent jurisdiction which may be exercised by a single judge sitting in chambers or by a single judge sitting in court without a jury except in relation to –
- (i) proceedings relating to the liberty of the subject; and

- (ii) proceedings in the Court's appellate jurisdiction other than a review of a taxation of costs by an officer of the Court; and
 - (iii) applications for relief similar to *certiorari*, *mandamus* or prohibition; and
 - (iv) applications for orders of review under the *Judicial Review Act 2000*;
- (b) by inserting the following subsection after subsection (1):

(1A) A reference in subsection (1)(f)(ii) to an officer of the Court does not include the Master.