

TASMANIA

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**SUPREME COURT AMENDMENT BILL 2007**

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# **SUPREME COURT AMENDMENT BILL 2007**

*(Brought in by the Minister for Justice and Workplace Relations, the Honourable Steven Kons)*

## **A BILL FOR**

**An Act to amend the *Supreme Court Act 1959* to change the title of the Master of the Supreme Court to that of Associate Judge and to amend certain other Acts consequent on that change**

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:

### **1. Short title**

This Act may be cited as the *Supreme Court Amendment Act 2007*.

### **2. Commencement**

This Act commences on a day to be proclaimed.

### **3. Legislative Amendments**

The legislation specified in Schedule 1 is amended as specified in that Schedule.

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**SCHEDULE 1 – LEGISLATIVE AMENDMENTS**

Section 3

*Supreme Court Act 1959*

1. The long title is amended by inserting “, to **rename that office as the office of Associate Judge**” after “**of the Supreme Court**”.
  
2. Section 3 is amended as follows:
  - (a) by inserting the following definition after the definition of “accumulation scheme”:

**“Associate Judge”** means the Master and Keeper of the Records mentioned in the Charter of Justice and includes an Acting Associate Judge;
  
  - (b) by inserting the following definition after the definition of “barrister”:

**“Charter of Justice”** means the Charter of Justice granted by the letters patent of King William IV, dated 4 March 1831, constituting the Supreme Court of Van Diemen’s Land;
  
  - (c) by omitting the definition of “Master”.

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3. Part II is amended by omitting “**THE MASTER OF THE SUPREME COURT**” from the heading to that Part and substituting “**ASSOCIATE JUDGE OF THE SUPREME COURT**”.
  
4. Section 4 is amended as follows:
  - (a) by omitting from subsection (1) “Master” and substituting “Associate Judge”;
  - (b) by omitting from subsection (2) “he” and substituting “he or she”;
  - (c) by omitting subsection (3);
  - (d) by omitting from subsection (4) “Master” and substituting “Associate Judge”;
  - (e) by omitting from subsection (4A) “Master” first occurring and substituting “Associate Judge”;
  - (f) by omitting from subsection (4A)(a) “Master” and substituting “Associate Judge”;
  - (g) by omitting from subsection (4B) “Master” first occurring and substituting “Associate Judge”;
  - (h) by omitting from subsection (4B)(b) “Master” and substituting “Associate Judge”;

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- (i) by omitting from subsection (5) “Master” and substituting “Associate Judge”;
- (j) by omitting from subsection (6) “Master” and substituting “Associate Judge”;
- (k) by omitting from subsection (7) “Master” and substituting “Associate Judge”.

**5.** Section 4AA is amended as follows:

- (a) by omitting from subsection (1) “Master” and substituting “Associate Judge”;
- (b) by omitting from subsection (2) “Master” first occurring and substituting “Associate Judge”;
- (c) by omitting from subsection (2)(b) “Master” and substituting “Associate Judge”;
- (d) by omitting from subsection (2)(d) “Master” and substituting “Associate Judge”;
- (e) by omitting from subsection (2)(e) “Master” and substituting “Associate Judge”;
- (f) by omitting from subsection (3) “Master” first occurring and substituting “Associate Judge”;

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- (g) by omitting from subsection (3)(c) “Master” and substituting “Associate Judge”;
- (h) by omitting from subsection (3)(d) “Master” and substituting “Associate Judge”;
- (i) by omitting from subsection (4) “Master” and substituting “Associate Judge”;
- (j) by omitting from subsection (5) “a Master” and substituting “the Associate Judge”;
- (k) by omitting from subsection (6) “Master” and substituting “Associate Judge”;
- (l) by omitting from subsection (6A) “Master” and substituting “Associate Judge”;
- (m) by inserting the following subsection after subsection (7):
  - (8) For the purpose of subsection (1), it is immaterial that, if the appointment referred to in that subsection was made after 1 July 1999 but before the commencement of the *Supreme Court Amendment Act 2007*, the appointment as Associate Judge would have referred to the former style of that office: Master.

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6. Section 4AB is amended by omitting “Master” and substituting “Associate Judge”.
  
7. Section 4AC is amended by omitting “Master” and substituting “Associate Judge”.
  
8. Section 4A is amended as follows:
  - (a) by omitting from subsection (1) “Master” first occurring and substituting “Associate Judge”;
  - (b) by omitting from subsection (1) “Acting Master” and substituting “Acting Associate Judge”;
  - (c) by omitting from subsection (2A) “Acting Master” and substituting “Acting Associate Judge”;
  - (d) by omitting from subsection (2B) “Acting Master” and substituting “Acting Associate Judge”;
  - (e) by omitting from subsection (2B) “practise” and substituting “practice”;
  - (f) by omitting from subsection (2C) “Acting Master” and substituting “Acting Associate Judge”;
  - (g) by omitting from subsection (3)(a) “Acting Master” and substituting “Acting Associate Judge”;



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- (h) by omitting from subsection (3)(a) “Master” second occurring and substituting “Associate Judge”;
- (i) by omitting from subsection (3)(b) “Acting Master” and substituting “Acting Associate Judge”;
- (j) by omitting from subsection (3)(b) “Master” second occurring and substituting “Associate Judge”;
- (k) by omitting from subsection (3)(c) “Acting Master” and substituting “Acting Associate Judge”.

**9.** Section 5 is amended as follows:

- (a) by omitting from subsection (1) “Master” and substituting “Associate Judge”;
- (b) by omitting from subsection (2) “Master” and substituting “Associate Judge”;
- (c) by omitting from subsection (2) “he has attained” and substituting “attaining”.

**10.** Section 5C is repealed and the following section is substituted:

**5C. Resignation of Associate Judge**

The Associate Judge may resign office by signed notice in writing delivered to the Governor.

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**11.** Section 5D is amended by omitting “Master” and substituting “Associate Judge”.

**12.** Sections 5E and 5F are repealed and the following sections are substituted:

**5E. Associate Judge not to engage in private practice, &c.**

(1) The Associate Judge must not, except for the purposes of performing the functions of that office, practise any profession or engage in other employment.

(2) However, subsection (1) does not preclude the Associate Judge from –

(a) holding any office that, by or under an enactment, is to be or may be held by the holder of the office of Associate Judge; or

(b) holding any office or engaging in any employment with the express written permission of the Attorney-General.

**5F. Rights of State Service officer or employee appointed as Associate Judge**

(1) The Associate Judge is not, as regards that particular office, subject to the provisions of the *State Service Act 2000*.

(2) However, if a person appointed as Associate Judge was a State Service

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officer or State Service employee immediately before that appointment –

- (a) the person retains all of his or her existing and accruing rights; and
- (b) for the purposes of determining those rights, the person’s service as Associate Judge is to be taken into account as if it were service as a State Service officer or State Service employee.

**13.** Section 5G is amended as follows:

- (a) by omitting “Master” first occurring and substituting “Associate Judge”;
- (b) by omitting “he considers may reasonably be necessary for the purpose of assisting the Master in the performance of his duties” and substituting “the Registrar considers may reasonably be necessary to help the Associate Judge perform the duties of that office”.

**14.** Section 5H is amended by omitting “his duties as Master” and substituting “his or her duties as Associate Judge,”.

**15.** Section 5HA is amended as follows:

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- (a) by omitting from subsection (1) “Master” twice occurring and substituting “Associate Judge”;
- (b) by omitting subsection (2) and substituting the following subsection:
  - (2) Unless a nomination under subsection (1) has been made to the Treasurer within one month after the commencement of the *Superannuation (Parliament, Judiciary and Statutory Legal Officers) Reform Act 1999*, the Associate Judge is taken to have elected to transfer the amounts specified in subsection (4) to an investment account established by the regulations under the *Retirement Benefits Act 1993*.
- (c) by omitting from subsection (4)(a) “Master” and substituting “Associate Judge”;
- (d) by omitting from subsection (4)(b) “Master” and substituting “Associate Judge”.

**16.** After section 5HA, the following section is inserted in Part II:

**5HB. Transitional office holder provision**

To avoid doubt –

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- (a) the person who held the office of Master of the Supreme Court immediately before the commencement of the *Supreme Court Amendment Act 2007* continues to hold that office on and after that commencement, under and subject to the *Supreme Court Act 1959* and on the same terms and conditions of appointment, under its new title of “Associate Judge”; and
- (b) a person who held appointment as Acting Master of the Supreme Court immediately before the commencement of the *Supreme Court Amendment Act 2007* continues to hold that appointment on and after that commencement, under and subject to the *Supreme Court Act 1959* and on the same terms and conditions of appointment, under the new title of “Acting Associate Judge”.

***Annulled Convictions Act 2003***

1. Schedule 1 is amended by omitting “master” from clause 1 of Part 1 and substituting “Associate Judge”.

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***Appeal Costs Fund Act 1968***

1. Section 2 is amended by omitting “, the Master” from the definition of “judicial officer” and substituting “or the Associate Judge”.
  
2. Section 8 is amended as follows:
  - (a) by omitting from subsection (1)(a)(iii) “Master” and substituting “Associate Judge”;
  
  - (b) by omitting from subsection (3) “Master” and substituting “Associate Judge”.

***Council of Law Reporting Act 1990***

1. Section 3 is amended by omitting “Master” from the definition of “judicial decision” and substituting “Associate Judge of the Supreme Court”.

***Criminal Code Act 1924***

1. Section 388A is amended as follows:
  - (a) by omitting from subsection (1)(b) “Master” and substituting “Associate Judge”;

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- (b) by omitting from subsection (1)(b) “Master’s” and substituting “Associate Judge’s”;
- (c) by omitting from subsection (2) “Master” and substituting “Associate Judge”;
- (d) by omitting from subsection (3) “Master’s” and substituting “Associate Judge’s”;
- (e) by omitting from subsection (6) “Master” and substituting “Associate Judge”;
- (f) by omitting from subsection (8) “Master” and substituting “Associate Judge”.

***Electoral Act 2004***

**1.** Section 49 is amended as follows:

- (a) by omitting from subsection (4) “Master” and substituting “the Associate Judge”;
- (b) by omitting from subsection (5) “Master” and substituting “Associate Judge of the Supreme Court”.

**2.** Section 85 is amended as follows:

- (a) by omitting from subsection (3) “Master” and substituting “the Associate Judge”;

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- (b) by omitting from subsection (4) “Master” and substituting “Associate Judge of the Supreme Court”.

***Evidence (Audio and Audio Visual Links) Act 1999***

- 1. Section 19(b)(ii) is amended by omitting “a Master” and substituting “an Associate Judge”.

***Judges’ Contributory Pensions Act 1968***

- 1. Section 2A is amended by omitting “Master” twice occurring from paragraph (b) of the definition of “appropriate judicial salary” and substituting “Associate Judge”.
  
- 2. Section 3(2) is amended as follows:
  - (a) by omitting from paragraph (a) “Master” and substituting “Associate Judge”;
  - (b) by omitting from paragraph (b) “Master” and substituting “Associate Judge”.
  
- 3. Section 5(1) is amended as follows:
  - (a) by omitting from paragraph (a) “Master” and substituting “Associate Judge”;
  - (b) by omitting from paragraph (b) “Master” and substituting “Associate Judge”.



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**4.** Section 10 is amended as follows:

- (a) by omitting “Master” first occurring and substituting “Associate Judge”;
- (b) by omitting from paragraph (a) “Master” and substituting “Associate Judge”;
- (c) by omitting from paragraph (b) “Master” and substituting “Associate Judge”.

***Land Acquisition Act 1993***

**1.** Section 3(1) is amended by omitting the definition of “Master”.

**2.** Section 61 is amended as follows:

- (a) by omitting from paragraph (a) “Master” twice occurring and substituting “the Associate Judge”;
- (b) by omitting from paragraph (b) “Master” twice occurring and substituting “the Associate Judge”.

***Motor Accidents (Liabilities and Compensation) Act 1973***

**1.** Section 12(2A) is amended by omitting “Master” and substituting “the Associate Judge”.

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***Ombudsman Act 1978***

1. Section 4(2)(j) is amended by omitting “a Master” and substituting “the Associate Judge”.

***Promissory Oaths Act 1869***

1. Schedule 1 is amended by omitting “Master” from clause 3 of Part 2 and substituting “Associate Judge”.

***Public Interest Disclosures Act 2002***

1. Section 4(2)(b) is amended by omitting “Master” and substituting “Associate Judge”.

***Public Sector Superannuation Reform Act 1999***

1. Section 3A(c) is amended by omitting “Master” and substituting “Associate Judge”.

***Retirement Benefits Act 1993***

1. Section 5(1)(c) is amended by omitting “Master” and substituting “Associate Judge”.

***Supreme Court Civil Procedure Act 1932***

1. Section 3(1) is amended as follows:

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- (a) by inserting the following definition after the definition of “assessed capital value”:

**“Associate Judge”** means the Associate Judge of the Supreme Court;

- (b) by omitting the definition of “Master”.

2. Section 191A is amended by omitting “Master” twice occurring and substituting “Associate Judge”.

3. Section 191B is amended as follows:

- (a) by omitting from subsection (1) “Master” and substituting “Associate Judge”;
- (b) by omitting from subsection (1) “him” and substituting “him or her”;
- (c) by omitting from subsection (2) “Master” and substituting “Associate Judge”;
- (d) by omitting from subsection (3) “Master” twice occurring and substituting “Associate Judge”;
- (e) by omitting from subsection (4) “Master” and substituting “Associate Judge”.

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4. Section 193(1) is amended by omitting “Master” first occurring and substituting “Associate Judge”.
  
5. Section 197 is amended as follows:
  - (a) by omitting from subsection (1)(f) “Master” and substituting “Associate Judge”;
  - (b) by omitting from subsection (1)(v) “Master” and substituting “Associate Judge”;
  - (c) by omitting from subsection (1A) “Master” and substituting “Associate Judge”;
  - (d) by omitting from subsection (3A) “Master” and substituting “Associate Judge”.
  
6. Section 202(1) is amended by omitting “Master” and substituting “Associate Judge”.