

TASMANIA

**MAGISTRATES COURT AMENDMENT BILL
(No. 2) 2003**

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MAGISTRATES COURT AMENDMENT BILL

(No. 2) 2003

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

A BILL FOR

An Act to amend the *Magistrates Court Act 1987*

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:

Short title

1. This Act may be cited as the *Magistrates Court Amendment Act (No. 2) 2003*.

Commencement

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

Principal Act

3. In this Act, the *Magistrates Court Act 1987** is referred to as the Principal Act.

*No. 45 of 1987

Section 4 amended (Appointment of magistrates)

4. Section 4 of the Principal Act is amended as follows:

- (a) by inserting the following subsections after subsection (1):

(1A) Under subsection (1), a person may be appointed as a –

- (a) permanent full-time magistrate; or
(b) permanent part-time magistrate.

(1B) If the nature of a person's appointment under subsection (1) is not specified in the instrument of appointment, the person is taken to have been appointed as a permanent full-time magistrate.

(1C) A permanent part-time magistrate holds office for such term, not exceeding 5 years, as is specified in the instrument of appointment.

- (b) by omitting from subsection (5) “, 11,”.

Section 5 amended (Chief Magistrate)

5. Section 5(1) of the Principal Act is amended by omitting “magistrate” and substituting “permanent full-time magistrate”.

Section 6 amended (Deputy Chief Magistrate)

6. Section 6 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “magistrate” and substituting “permanent full-time magistrate”;
- (b) by omitting from subsection (7) “magistrate” first occurring and substituting “permanent full-time magistrate”.

Section 8 amended (Qualification for appointment)

7. Section 8(3) of the Principal Act is amended by inserting “permanent part-time magistrate or” after “as a”.

Section 9 amended (Tenure of office)

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

- (a) by omitting subsection (4) and substituting the following subsection:
 - (4)** Notwithstanding anything in subsections (1), (2) and (3) –
 - (a) a permanent full-time magistrate retires from office when he or she turns 65 years of age; and
 - (b) a permanent part-time magistrate retires from office when his or her term of office expires.
- (b) by omitting subsection (5).

Section 10 amended (Terms and conditions of service of magistrates)

9. Section 10 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

(1) A permanent full-time magistrate is entitled to be paid a salary at the rate of –

- (a) 75% of the salary payable to a puisne judge of the Supreme Court of Tasmania, if the magistrate is the Chief Magistrate; or
- (b) 70% of that salary, if the magistrate is the Deputy Chief Magistrate; or
- (c) 67.5% of that salary, in any other case.

(1A) A permanent part-time magistrate is entitled to be paid such salary as is specified in his or her instrument of appointment.

(1B) A magistrate is entitled to be paid such travelling and other allowances as the Governor may from time to time determine or, if there is for the time being no such determination, such travelling and other allowances as are applicable to a person who is a Head of a State Service Agency.

Section 11 substituted

10. Section 11 of the Principal Act is repealed and the following sections are substituted:

Where magistrates are to be stationed

11. (1) A permanent full-time magistrate is to be stationed in such city or town as the Attorney-General from time to time determines.

(2) A permanent part-time or temporary magistrate is to work at such locations as the Chief Magistrate from time to time determines.

Hours of work of certain magistrates

11A. A permanent part-time or temporary magistrate is to work such hours as the Chief Magistrate from time to time determines.

Section 13 amended (Jurisdiction and powers of magistrates)

11. Section 13 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) A magistrate, by virtue of his or her office and without further commission or authority, is a justice.

Section 14 amended (Jurisdiction and powers of Chief Magistrate)

12. Section 14 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) The Chief Magistrate, by virtue of his or her office and without further commission or authority, may, in his or her capacity as Chief Magistrate, exercise and perform, throughout the State, all the jurisdiction, powers and functions conferred or imposed on the Chief Magistrate by or under any law of the State.

Section 15AC amended (Magistrates Rule Committee)

13. Section 15AC(2) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:

- (c) the permanent full-time magistrates; and

Section 16C inserted

14. Before section 17 of the Principal Act, the following section is inserted in Part IV:

Inter-court exchanges

16C. (1) The Chief Magistrate may enter into an arrangement with the Chief Magistrate of another State or a Territory that provides for either or both of the following:

- (a) a magistrate of this State to serve for a period as a magistrate in that other State or that Territory;
- (b) a magistrate of that other State or that Territory to serve for a period as a magistrate in this State.

(2) An arrangement under subsection (1) is to be on such terms, consistent with this Act, as the Chief Magistrate and the other Chief Magistrate determine.

(3) Notwithstanding subsection (1), a person is not eligible to exercise powers or perform functions as a magistrate in this State pursuant to an arrangement entered into under that subsection unless he or she holds an appointment under section 4(4) as a temporary magistrate.

Section 17B amended (Special evidentiary rules)

15. Section 17B of the Principal Act is amended by omitting “magistrates” and substituting “permanent full-time magistrates”.