

DRAFT SECOND READING SPEECH

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Supreme Court Amendment (Judges) Bill 2016

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Madam Speaker

The principal purpose of this Bill is to amend the *Supreme Court Act 1887* to allow for the remuneration of acting judges on a part-time basis.

In its current form, the *Supreme Court Act 1887* allows for the appointment of acting judges for such period as the Governor may specify in their instrument of appointment. However, once appointed the Act provides that acting judges are entitled to the salary of a full-time puisne judge for the duration of their appointments. In simple terms, even if an acting judge's appointment is effectively part-time, as a matter of law they are entitled to a full-time salary.

These amendments, which were at the request of the Chief Justice, make it clear that judges can be appointed on either a full-time or part-time basis, and that they may be paid accordingly. The amendments also provide for a means by which the part-time pay is calculated.

In short, these amendments mean that a part-time acting judge will be paid for the time they spend on the matters they were appointed to hear, instead of for the duration of their appointment.

These amendments provide the Supreme Court with the flexibility to respond to fluctuations in its workflow in a cost-effective manner. For example, when a backlog develops, as is currently the case, an acting judge could be appointed, and the Chief Justice could allocate the acting judge such work as is required. Currently acting judges appointed to hear particular matters have been required to be paid at a full-time rate. This is not cost-effective.

This Bill also provides that if required the appointment of an acting judge is extended beyond the end of their term of appointment to allow for the completion of any part-heard matters before them. This is a sensible amendment that will avoid the need for an acting judge to go through the formal reappointment process which would only serve to delay any part-heard matters. Similar provisions exist in other Tasmanian legislation relating to other bodies, and it is a sensible addition to this Act.

This Bill also takes the opportunity to modernise the provisions relating to the qualifications required for appointment as a judge. The provisions in the *Supreme Court Act 1887* that deal with this remain largely unchanged since the 1887. As such it does not reflect the current language used to refer to the legal profession.

With these amendments, the Act will state in simple terms the qualifications required to be appointed as a judge of the Supreme Court – namely that you must be an Australian lawyer of 10 years standing and over the age of 35 years. The qualifications required to be appointed the Associate Judge, who is appointed under the *Supreme Court Act 1959*, are also being amended so they are consistent with those of a judge.

These amendments remove any uncertainty that the colonial language of the 1887 Act may cause. When read in conjunction with how the law defines current members of legal profession, there is some doubt as to what the 1887 Act exactly intends. These amendments remove this uncertainty by importing modern language into the Act.

In the exercise of caution, this Bill also validates all past appointments to the Supreme Court, and the acts of those appointed to that Court. There is no question regarding the skills and experience of those previously appointed to the Supreme Court, but it was thought prudent to include a general validation clause to completely remove any doubt.

Madam Speaker, these amendments have the capacity to contribute to an efficient and effective criminal and civil justice system in Tasmania and as such facilitate the proper administration of justice.

I commend the Bill to the House.