

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 20 August 1981

(Minister for Home Affairs and Environment)

A BILL

FOR

An Act to amend the *Norfolk Island Act 1979*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Norfolk Island Amendment Act 1981*.

5 (2) The *Norfolk Island Act 1979*¹ is in this Act referred to as the Principal Act.

Interpretation

2. Section 4 of the Principal Act is amended—

10 (a) by inserting after the definition of “Administrator” in sub-section (1) the following definition:

“ ‘Chief Judge’ means the Chief Judge of the Supreme Court;”;

(b) by adding “(including the Chief Judge)” at the end of the definition of “Judge” in sub-section (1); and

(c) by omitting from sub-section (1) the definition of “senior Judge”.

Constitution of Supreme Court

3. (1) Section 52 of the Principal Act is amended by omitting from sub-section (2) “a Judge or Judges” and substituting “a Chief Judge and such other Judge as is, or such other Judges as are,”.

(2) Nothing in sub-section (1) affects the continuance of a person in office as a Judge of the Supreme Court of Norfolk Island under an appointment made before the commencement of this Act. 5

Appointment of Judges

4. (1) Section 53 of the Principal Act is amended—

(a) by inserting after sub-section (1) the following sub-section: 10

“(1A) The Governor-General may, by Commission, appoint a person who is a Judge of another court created by the Parliament to be the Chief Judge of the Supreme Court.”;

(b) by inserting in sub-section (2) “or (1A)” after “(1)”; and

(c) by adding at the end thereof the following sub-sections: 15

“(3) A person shall not be appointed—

(a) as a Judge under sub-section (1); or

(b) as the Chief Judge under sub-section (1A), whether or not he already holds office as a Judge,

if he has attained the age of 70 years. 20

“(4) A Judge ceases to hold office as a Judge upon his attaining the age of 70 years.

“(5) A Judge ceases to hold office as a Judge if he no longer holds office as a Judge of another court created by the Parliament.

“(6) A Judge may resign his office by writing under his hand delivered to the Governor-General.”. 25

(2) Subject to sub-section (3) of this section, sub-sections 53 (4) and (5) of the *Norfolk Island Act* 1979 as amended by sub-section (1) of this section do not apply in relation to a person who, immediately before the commencement of this Act, held office as a Judge of the Supreme Court of Norfolk Island. 30

(3) If a person who, immediately before the commencement of this Act, held office as a Judge of the Supreme Court of Norfolk Island is appointed as Chief Judge of the Supreme Court of Norfolk Island then, notwithstanding sub-section (2) of this section, sub-sections 53 (4) and (5) of the *Norfolk Island Act* 1979 as amended by sub-section (1) of this section apply in respect of his tenure of the office of Chief Judge. 35

5. After section 53 of the Principal Act the following section is inserted:

Acting Chief Judge

“53A. Whenever—

(a) the Chief Judge is absent from both Australia and Norfolk Island or is absent from duty; or 40

(b) there is a vacancy in the office of Chief Judge, the next senior Judge who is in Australia or Norfolk Island and is able and willing to do so shall perform the duties, and may exercise the powers, of the Chief Judge.”.

5 6. Section 54 of the Principal Act is repealed and the following section substituted:

Seniority of Judges

10 “54. The Chief Judge is the senior Judge of the Supreme Court and the other Judges have seniority according to the dates on which their Commissions took effect or, where the Commissions of 2 or more of them took effect on the same date, according to the precedence assigned to them by their Commissions.”.

Exercise of jurisdiction

15 7. Section 58 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

20 “(2) The Chief Judge is responsible for ensuring the orderly and expeditious discharge of the business of the Supreme Court and accordingly may, subject to this Act and to such consultation with the Judges as is appropriate and practicable, make arrangements as to the Judge or Judges who is or are to constitute the Supreme Court in particular matters or classes of matters.”.

NOTE

1. No. 25, 1979.

