

South Australia



**INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS)
AMENDMENT ACT 1996**

No. 57 of 1996

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ANNO QUADRAGESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1996

No. 57 of 1996

An Act to amend the Industrial and Employee Relations Act 1994.

[Assented to 8 August 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Industrial and Employee Relations (Miscellaneous) Amendment Act 1996*.

(2) The *Industrial and Employee Relations Act 1994* is referred to in this Act as "the principal Act".

Substitution of Division 4 of Part 2

2. Division 4 of Part 2 of the principal Act (comprising sections 18 to 20) is repealed and the following Division is substituted:

DIVISION 4—JUDICIAL OFFICE

The Senior Judge

18. (1) The Senior Judge of the Court is—

- (a) a District Court Judge assigned by the Governor, by proclamation, to be Senior Judge of the Court; or
- (b) a person eligible for appointment as a District Court Judge appointed by the Governor to be Senior Judge of the Court.

(2) Before the Governor assigns a District Court Judge to be Senior Judge of the Court, the Attorney-General must consult with the Chief Judge of the District Court about the proposed assignment.

(3) A person assigned to the office of Senior Judge of the Court ceases to hold that office if the person ceases to be a District Court Judge.

(4) Subject to any relevant determination by the Remuneration Tribunal, the Senior Judge of the Court holds office on the same terms and conditions as a District Court Judge.

Other Judges of the Court

19. (1) A Judge of the Court is—

- (a) a District Court Judge assigned by the Governor, by proclamation, to be a Judge of the Court; or
- (b) a person eligible for appointment as a District Court Judge appointed by the Governor to be a Judge of the Court.

(2) There will be as many Judges of the Court as the Governor considers necessary.

(3) Before the Governor assigns a District Court Judge to be a Judge of the Court, the Attorney-General must consult with the Senior Judge of the Court and the Chief Judge of the District Court about the proposed assignment.

(4) A person assigned to the office of Judge of the Court ceases to hold that office if the person ceases to be a District Court Judge.

(5) Subject to any relevant determination by the Remuneration Tribunal, a person appointed to the office of Judge of the Court holds office on the same terms and conditions as a District Court Judge.

Industrial magistrates

19A. (1) An industrial magistrate is a magistrate under the *Magistrates Act 1983* assigned by the Governor, by proclamation, to be an industrial magistrate.

(2) There will be as many industrial magistrates as the Governor considers necessary.

(3) Before the Governor assigns a magistrate to be an industrial magistrate, the Attorney-General must consult with the Senior Judge of the Court and the Chief Magistrate of the Magistrates Court about the proposed assignment.

(4) A person ceases to hold office as an industrial magistrate if the person ceases to hold office as a magistrate under the *Magistrates Act 1983*.

(5) The Senior Judge has the powers of the Chief Magistrate under the *Magistrates Act 1983* in place of the Chief Magistrate in relation to an industrial magistrate who is a member of the Court's principal judiciary.

Classification into principal and ancillary judiciary

20. (1) The Court's judiciary is made up of the members of its principal judiciary (*ie.*, those members of its judiciary who are occupied predominantly in the Court) and its ancillary judiciary (*ie.*, those members of its judiciary who are not occupied predominantly in the Court).

(2) The principal judiciary consists of—

- (a) the Senior Judge; and

- (b) the Judges who were appointed specifically to the Court (as distinct from the Judges assigned to be Judges of the Court); and
- (c) the Judges and industrial magistrates who are classified as members of the Court's principal judiciary by the proclamations under which they were assigned to be members of the Court's judiciary.

(3) A proclamation assigning a person to be a member of the Court's judiciary must classify the person either as a member of the Court's principal judiciary or as a member of the Court's ancillary judiciary.

(4) An assignment to be a member of the Court's principal judiciary is effective for as long as the member continues to hold office as a District Court Judge or a magistrate under the *Magistrates Act 1983* (as the case requires) but an assignment to be a member of the Court's ancillary judiciary will be for a term specified in the proclamation of assignment which may be renewed or extended by proclamation from time to time but may not extend beyond the time when the member ceases to hold office as a District Court Judge or a magistrate under the *Magistrates Act 1983* (as the case requires).

(5) However, the Governor may, by proclamation, made at the request or with the consent of the Judge or magistrate concerned—

- (a) change the terms of an assignment so that a member of the Court's principal judiciary becomes a member of its ancillary judiciary, or a member of the Court's ancillary judiciary becomes a member of its principal judiciary; or
- (b) revoke an assignment to the Court's principal or ancillary judiciary.

Amendment of Schedule 1, s. 7

3. Schedule 1 of the principal Act is amended—

(a) by striking out section 7(1) and substituting the following subsection:

(1) An industrial agreement in force under the former Act immediately before the commencement of this Act continues in force under this Act, unless earlier superseded by an enterprise agreement, until 31 December 1996.;

(b) by striking out section 7(3) and substituting the following subsection:

(3) The Commission—

- (a) must take reasonable steps to ensure that the parties to industrial agreements are aware that the agreements will lapse on 31 December 1996; and
- (b) must, as far as practicable and appropriate, encourage the renegotiation of the agreements as enterprise agreements.

Transitional provision

4. An assignment made under the principal Act before the commencement of this Act—

(a) assigning a District Court Judge to be the Senior Judge, or a Judge, of the Court; or

(b) assigning a magistrate to be an industrial magistrate,

continues in force, subject to the principal Act, as an assignment under the corresponding provision of the principal Act as amended by this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor