



# **JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) ACT, 1988**

**No. 95 of 1988**

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No. 95 of 1988

**An Act to supplement, and achieve efficiencies in the deployment of, the State's judiciary; to amend the Supreme Court Act, 1935; the Local and District Criminal Courts Act, 1926 and the Magistrates Act, 1983; and for other purposes.**

[Assented to 15 December 1988]

The Parliament of South Australia enacts as follows:

## Short title

1. This Act may be cited as the *Judicial Administration (Auxiliary Appointments and Powers) Act, 1988*.

## Interpretation

2. In this Act—

“judicial office” means—

- (a) the office of Judge of the Supreme Court;
- (b) the office of Master of the Supreme Court, District Court Judge, Judge of the Industrial Court, Judge of the Licensing Court or Judge of the Children's Court;
- (c) the office of District Court Master or Deputy District Court Master;
- (d) the office of Magistrate or Industrial Magistrate,

(and the order of the above paragraphs indicates the level of seniority of the various offices, the inclusion of reference to more than one office in the same paragraph indicating a co-ordinate level of seniority):

“judicial officer” means a person appointed to hold or act in a judicial office and includes a person appointed under this Act to act in a judicial office on an auxiliary basis.

## Appointment of judicial auxiliaries

3. (1) The Governor may, with the concurrence of the Chief Justice, appoint a person to act in a specified judicial office or in specified judicial offices on an auxiliary basis.

(2) A person cannot be appointed to act in a judicial office under this section unless the person—

(a) is eligible for appointment to the relevant judicial office on a permanent basis;

or

(b) would be eligible for appointment to the relevant judicial office on a permanent basis but for the fact that he or she is over the age of retirement.

(3) A person who already holds a judicial office may concurrently hold an appointment under this section to act in some other judicial office on an auxiliary basis.

(4) An appointment made under this section will be for an initial term (not exceeding 12 months) specified in the instrument of appointment and may, with the concurrence of the Chief Justice, be extended for a further term or terms (but the appointment may not be extended on any one occasion by more than 12 months).

(5) An appointment under this section cannot be revoked.

(6) The remuneration and conditions of service applicable to a person holding an appointment under this section will be determined by the Governor with the concurrence of the Chief Justice.

#### **Powers of judicial auxiliary**

4. (1) A person appointed to act in a judicial office on an auxiliary basis has, during the term of appointment, the same jurisdiction and powers as if appointed to the relevant judicial office on a permanent basis.

(2) A person appointed to act in a judicial office on an auxiliary basis may, after the conclusion of a term of appointment, continue to act in the relevant office for the purpose of completing the hearing and determination of proceedings part-heard before the expiration of that term.

#### **Power of judicial officer to act in co-ordinate and less senior offices**

5. (1) Subject to subsection (2), a judicial officer holding or acting in a particular judicial office may exercise, in addition to the jurisdiction and powers attaching to that office, the jurisdiction and powers attaching to any other judicial office of a co-ordinate or lesser level of seniority.

(2) This section does not authorize a judicial officer to exercise the jurisdiction or powers of the Industrial Court.

(3) A judicial officer who holds a particular judicial office but is acting in another may adopt the title appropriate to that other office.

(4) A judicial officer who has been appointed to hold or act in a judicial office in a particular court must obtain the consent of the judicial head of that court before undertaking judicial work in another court (but such a consent is not required where the occasion to exercise the jurisdiction and powers of some other court arises incidentally in some matter before the court to which the judicial officer was appointed).

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**SCHEDULE 1****AMENDMENT OF SUPREME COURT ACT, 1935**

The *Supreme Court Act, 1935*, is amended as follows:

**Section 8—**

After subsection (3) insert subsection as follows:

(4) For the purpose of determining whether a practitioner of the court has the standing necessary for appointment as a judge or master, periods of legal practice and (where relevant) judicial service within and outside the State will be taken into account.

**Section 11—**

Delete subsection (1a) and substitute the following subsections:

(1a) A former judge or master who has retired from office is eligible for appointment as an acting judge or an acting master.

(1b) An appointment under this section will be for a term not exceeding 12 months.

**Section 12—**

Delete this section and substitute:

**Remuneration of judges and masters**

12. (1) The Chief Justice and each puisne judge are entitled to salary and allowances at rates determined by the Remuneration Tribunal in relation to the respective offices.

(2) A master is entitled to salary and allowances at the rates applicable to a District Court Judge.

(3) A rate of salary for a judge or master cannot be reduced by determination of the Remuneration Tribunal.

(4) The remuneration of the judges and masters is payable from the General Revenue of the State, which is appropriated to the necessary extent.

## SCHEDULE 2

## AMENDMENT OF LOCAL AND DISTRICT CRIMINAL COURTS ACT, 1926

The *Local and District Criminal Courts Act, 1926*, is amended as follows:

**Section 5b—**

Delete subsection (3a) and substitute the following subsection:

(3a) For the purpose of determining whether a legal practitioner has the standing necessary for appointment as a Judge or Master, periods of legal practice and (where relevant) judicial service within and outside the State will be taken into account.

**Section 5c—**

Delete subsection (1) and substitute the following subsection:

(1) Subject to subsection (6), where the Governor is of the opinion that it is in the interests of justice to do so, the Governor may—

(a) appoint a fit and proper person who is qualified under section 5b (3);

or

(b) appoint a former Judge who has retired from office,  
to acting judicial office.

Delete subsections (4) and (5) and substitute the following subsection:

(4) An appointment under subsection (1) will be for a term not exceeding 12 months.

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**SCHEDULE 3****AMENDMENT OF MAGISTRATES ACT, 1983**

The *Magistrates Act, 1983*, is amended as follows:

**Section 5—**

Strike out from subsection (3) "three months" and substitute "12 months".

After subsection (3) insert subsection as follows:

(3a) A former magistrate who has retired from office is eligible for appointment as an acting magistrate.

After subsection (5) insert subsection as follows:

(6) For the purpose of determining whether a legal practitioner has the standing necessary for appointment as a magistrate, periods of legal practice and (where relevant) judicial service within and outside the State will be taken into account.

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

**D. B. DUNSTAN, Governor**