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ELIZABETHAE II REGINAE

A.D. 1972

No. 18 of 1972

An Act to provide for the appointment of a Solicitor-General, to provide for the terms and conditions of service of a person appointed to that office and for matters incidental thereto.

[Assented to 30th March, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Solicitor-General Act, 1972".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Definition.

3. In this Act, unless the contrary intention appears—

"service as Solicitor-General" means service as Solicitor-General under this Act, and where that service was not continuous includes the aggregate of any periods of such service as Solicitor-General:

"Solicitor-General" means the person for the time being holding the office of Solicitor-General of the State of South Australia.

Appointment of Solicitor-General.

4. (1) The Governor may appoint a legal practitioner of not less than seven years' standing to be Solicitor-General of the State of South Australia.

(2) The person who was immediately before the commencement of this Act holding the office of Solicitor-General under the Public Service Act, 1967, as amended, shall on that commencement for all purposes be deemed to have been appointed under subsection (1) of this section to be the Solicitor-General of the State of South Australia.

(3) The office of Solicitor-General under the Public Service Act, 1967, as amended, is, by force of this subsection, abolished.

5. (1) Subject to this Act, the Solicitor-General shall be appointed and hold office on such terms and conditions as the Governor from time to time determines.

Terms and conditions of appointment of Solicitor-General.

(2) The Solicitor-General shall be paid such salary and allowances as the Governor from time to time determines.

(3) The moneys required to be paid for the purposes of this section shall be payable out of the General Revenue of the State on the warrant of the Governor which warrant the Governor is by this subsection authorized and required to issue from time to time.

(4) The Public Service Act, 1967, as amended, shall not apply to or in relation to the Solicitor-General.

6. The Solicitor-General—

Duties and obligations of Solicitor-General.

(a) shall at the request of the Attorney-General—

(i) act as Her Majesty's counsel;

and

(ii) perform such other duties as are ordinarily performed by counsel;

and

(b) shall not, except with the consent of the Attorney-General, engage in any other remunerative employment.

7. The Governor may by writing under his hand remove the Solicitor-General from office on the ground—

Removal from office of Solicitor-General.

(a) that the Solicitor-General is, otherwise than by reason of temporary illness, incapable of performing the duties of his office;

or

(b) that the Solicitor-General has been guilty of misconduct, and upon such removal the office of the Solicitor-General shall become vacant.

Resignation and
retirement.

8. (1) The Solicitor-General may resign his office by writing signed by him and delivered to the Governor and upon that delivery the office of the Solicitor-General shall become vacant.

(2) The Solicitor-General shall retire from office on the day on which he attains the age of sixty-five years and on that day the office of the Solicitor-General shall become vacant.

Leave on
retirement.

9. (1) Subject to this section, the Governor may grant to the Solicitor-General immediately prior to his retirement on attaining the age of sixty-five years not more than six months leave of absence on full salary.

(2) Where the Solicitor-General retires without taking any leave which had been or could have been granted to him under subsection (1) of this section, the Governor may direct that a cash payment be made to him in lieu of the leave not so taken, but the payment shall not exceed the amount of the salary of the Solicitor-General for a period equal to the period of the leave not so taken, calculated at the rate at which he was being paid at the time of the retirement.

(3) A direction under subsection (2) of this section may be given before or after the retirement of the Solicitor-General and a payment under that subsection may be made before or after that retirement.

(4) If the Solicitor-General dies before the commencement or during the currency of any leave granted or before such leave has been granted pursuant to subsection (1) of this section, the Governor may, in respect of the period of the leave so granted or the unexpired portion thereof, or in respect of the period of the leave which might have been granted (according to the circumstances of the case), pay to the dependants (if any) of the Solicitor-General the amounts of salary which would have been payable to the Solicitor-General himself if he had survived and if the Solicitor-General died without leaving any dependants the Governor may pay the said amounts of salary to his personal representative.

(5) Any question as to—

(a) whether there are any dependants in any particular case, or who are the dependants;

or

(b) what dependant or dependants shall be entitled to the benefit of payments made under this subsection, and in what proportions if more than one dependant,

shall be settled by the Governor, as he deems proper.

(6) In subsection (5) of this section the terms—

“dependants” means those members of the family of the Solicitor-General who were wholly or in part dependant upon his earnings at the time of his death:

“members of the family” includes widow or widower, parents, grand-parents, step-parents, children, grand-children, step-children, brothers, sisters, half-brothers and half-sisters.

(7) Where leave is granted to the Solicitor-General under this section, the Solicitor-General may, at the commencement of such leave, be paid the total salary which would be payable to him during the currency of the leave.

10. (1) The Judges' Pensions Act, 1971, shall in all respects apply to and in relation to the Solicitor-General as if—

Pension rights of Solicitor-General, application of Judges' Pensions Act.

(a) he were a Judge as defined in that Act;
and

(b) his service as Solicitor-General were judicial service as defined in that Act.

(2) A pension payable to a person who was Solicitor-General or to the widow or child of any such person by virtue of subsection (1) of this section, shall for all purposes be deemed to be a pension payable under the Judges' Pensions Act, 1971.

(3) Notwithstanding anything in this section, unless the Governor otherwise directs, no pension shall be payable under the Judges' Pensions Act, 1971, to or in relation to a Solicitor-General who has been removed from office pursuant to section 7 of this Act.

11. (1) Where a person who is or has been Solicitor-General is appointed a Judge as defined in the Judges' Pensions Act, 1971, that Act shall apply to and in relation to that person as if—

Solicitor-General appointed Judge.

(a) the service as Solicitor-General of that person were judicial service as defined in that Act;

and

(b) section 5 of that Act had not been enacted.

(2) Where a person referred to in subsection (1) of this section was, immediately before his appointment as a Judge, in receipt of a pension under the Judges' Pensions Act, 1971, that pension shall upon that appointment cease and determine.

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

M. L. OLIPHANT, Governor