



**STATUTES AMENDMENT (COURTS ADMINISTRATION
STAFF) ACT 1995**

No. 85 of 1995

SUMMARY OF PROVISIONS

**PART 1
PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation

**PART 2
AMENDMENT OF COURTS ADMINISTRATION ACT 1993**

4. Amendment of s. 16—The State Courts Administrator
5. Amendment of s. 17—Functions and powers of the Administrator
6. Substitution of ss. 18, 19 and 20
 18. Appointment of senior staff
 19. Disciplinary action and termination of employment
7. Amendment of s. 21—Other staff
8. Insertion of ss. 21A and 21B
 - 21A. Non-judicial court staff
 - 21B. Application of Public Sector Management Act and Superannuation Act
9. Amendment of s. 22—Responsibility of staff

**PART 3
AMENDMENT OF DISTRICT COURT ACT 1991**

10. Amendment of s. 17—Administrative and ancillary staff

**PART 4
AMENDMENT OF ENVIRONMENT, RESOURCES AND
DEVELOPMENT COURT ACT 1993**

11. Amendment of s. 14—Court's administrative and ancillary staff

**PART 5
AMENDMENT OF MAGISTRATES COURT ACT 1991**

12. Amendment of s. 12—Administrative and ancillary staff

**PART 6
AMENDMENT OF SHERIFF'S ACT 1978**

13. Amendment of s. 5—The Sheriff
14. Amendment of s. 6—Deputy Sheriffs and sheriff's officers

**PART 7
AMENDMENT OF SUPREME COURT ACT 1935**

15. Substitution of s. 106
 106. Appointment of tipstaves
16. Amendment of s. 109—Appointment of other officers
17. Amendment of s. 110A—Administrative and ancillary staff

**PART 8
AMENDMENT OF YOUNG OFFENDERS ACT 1993**

18. Amendment of s. 9—Youth Justice Co-ordinators

**PART 9
AMENDMENT OF YOUTH COURT ACT 1993**

19. Amendment of s. 11—Administrative and ancillary staff

**PART 10
TRANSITIONAL PROVISION**

20. Transitional provision



ANNO QUADRAGESIMO QUARTO

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A.D. 1995

No. 85 of 1995

An Act to amend the Courts Administration Act 1993, the District Court Act 1991, the Environment, Resources and Development Court Act 1993, the Magistrates Court Act 1991, the Sheriff's Act 1978, the Supreme Court Act 1935, the Young Offenders Act 1993 and the Youth Court Act 1993.

[Assented to 30 November 1995]

The Parliament of South Australia enacts as follows:

PART 1 PRELIMINARY

Short title

1. This Act may be cited as the *Statutes Amendment (Courts Administration Staff) Act 1995*.

Commencement

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

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2 AMENDMENT OF COURTS ADMINISTRATION ACT 1993

Amendment of s. 16—The State Courts Administrator

4. Section 16 of the principal Act is amended—

- (a) by striking out from subsection (6) "Part 3 of the *Government Management and Employment Act 1985*" and substituting "the *Public Sector Management Act 1995* (other than Part 2 of that Act)"; and
- (b) by inserting after subsection (6) the following subsection:
 - (7) The Council may assign an appropriate employee to act as the Administrator—
 - (a) during a vacancy in the office of Administrator; or

**Statutes Amendment (Courts Administration
Staff) Act 1995**

No. 85 of 1995

- (b) when the Administrator is absent from, or unable to discharge, official duties.

Amendment of s. 17—Functions and powers of the Administrator

5. Section 17 of the principal Act is amended by striking out from subsection (3) "Officer".

Substitution of ss. 18, 19 and 20

6. Sections 18, 19 and 20 of the principal Act are repealed and the following sections are substituted:

Appointment of senior staff

18. The senior staff of the Council are to be appointed by the Administrator with the approval of the Council.

Disciplinary action and termination of employment

19. The Council's consent is required before—

- (a) disciplinary action may be taken against a member of the Council's senior staff; or
- (b) the employment of a member of the senior staff may be terminated.

Amendment of s. 21—Other staff

7. Section 21 of the principal Act is amended by striking out "under the *Government Management and Employment Act 1985*".

Insertion of ss. 21A and 21B

8. The following sections are inserted in Division 4 of Part 4 before section 22 of the principal Act:

Non-judicial court staff

21A. (1) The staff of the Council includes—

- (a) the Registrars of the participating courts; and
- (b) the Sheriff; and
- (c) the Registrar of Probates; and
- (d) the Youth Justice Co-ordinators (who are not Magistrates); and
- (e) any deputies of the officers referred to above; and
- (f) the other non-judicial officers and staff of the participating courts.

(2) This Act has effect in addition to, and does not derogate from, any provisions of another Act providing for the appointment of, or otherwise specifically relating to, officers or staff referred to in subsection (1).

Application of Public Sector Management Act and Superannuation Act

21B. (1) Subject to this Act, the *Public Sector Management Act 1995* applies—

- (a) with any modifications and exclusions required by the context; and

(b) with prescribed modifications and exclusions,

to the staff and positions on the staff of the Council in the same way as to an administrative unit and positions in an administrative unit of the Public Service.

(2) Part 4 (other than section 17) and section 22(1)(c) and (e) of the *Public Sector Management Act 1995* do not apply to the staff or positions on the staff of the Council.

(3) Section 7(3) and (4) of the *Public Sector Management Act 1995* do not apply to prescribed positions or the senior staff of the Council.

(4) The regulations may modify or exclude the application of a specified provision of the *Public Sector Management Act 1995* to the staff or a position on the staff of the Council.

(5) The *Superannuation Act 1988* applies to a member of the Council's staff in the same way as to a person employed in the Public Service.

Amendment of s. 22—Responsibility of staff

9. Section 22 of the principal Act is amended by inserting in paragraph (b) "participating" before "court" twice occurring.

**PART 3
AMENDMENT OF DISTRICT COURT ACT 1991**

Amendment of s. 17—Administrative and ancillary staff

10. Section 17 of the principal Act is amended by striking out from subsection (2) "employed under the *Government Management and Employment Act 1985*" and substituting "appointed under the *Courts Administration Act 1993*".

**PART 4
AMENDMENT OF ENVIRONMENT, RESOURCES AND
DEVELOPMENT COURT ACT 1993**

Amendment of s. 14—Court's administrative and ancillary staff

11. Section 14 of the principal Act is amended—

(a) by striking out from subsection (2) "employed under the *Government Management and Employment Act 1985*" and substituting "appointed under the *Courts Administration Act 1993*";

(b) by striking out subsection (3).

**PART 5
AMENDMENT OF MAGISTRATES COURT ACT 1991**

Amendment of s. 12—Administrative and ancillary staff

12. Section 12 of the principal Act is amended by striking out from subsection (2) "employed under the *Government Management and Employment Act 1985*" and substituting "appointed under the *Courts Administration Act 1993*".

PART 6
AMENDMENT OF SHERIFF'S ACT 1978

Amendment of s. 5—The Sheriff

13. Section 5 of the principal Act is amended by striking out from subsection (3) "employed under the *Government Management and Employment Act 1985*" and substituting "appointed under the *Courts Administration Act 1993*".

Amendment of s. 6—Deputy Sheriffs and sheriff's officers

14. Section 6 of the principal Act is amended—

- (a) by striking out from subsection (1) "employed under the *Government Management and Employment Act 1985*" and substituting "appointed under the *Courts Administration Act 1993*";
- (b) by striking out from subsection (2) "under subsection (1)".

PART 7
AMENDMENT OF SUPREME COURT ACT 1935

Substitution of s. 106

15. Section 106 of the principal Act is repealed and the following section is substituted:

Appointment of tipstaves

106. (1) There will be such tipstaves of the court as are necessary.

(2) No tipstaff will be appointed except on the recommendation of the Chief Justice.

Amendment of s. 109—Appointment of other officers

16. Section 109 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:

(2) Subject to subsection (3), no such other officer will be appointed except on the recommendation of the Chief Justice.

(3) The associates to the judges will be appointed and may be removed from office by the Chief Justice, but otherwise will be subject to the *Courts Administration Act 1993* in the same way as other staff of the court appointed under that Act.

Amendment of s. 110A—Administrative and ancillary staff

17. Section 110A of the principal Act is amended—

- (a) by striking out paragraphs (b) and (c) of subsection (1) and substituting the following paragraph:
 - (b) any other persons appointed to the non-judicial staff of the Court.;
- (b) by striking out subsection (2) and substituting the following subsection:
 - (2) The Court's administrative and ancillary staff (other than judges' associates) will be appointed under the *Courts Administration Act 1993*.

PART 8
AMENDMENT OF YOUNG OFFENDERS ACT 1993

Amendment of s. 9—Youth Justice Co-ordinators

18. Section 9 of the principal Act is amended—

(a) by striking out from subsection (1)(b) "by the Minister";

(b) by inserting after subsection (1) the following subsection:

(1a) Youth Justice Co-ordinators (who are not Magistrates) will be appointed under the *Courts Administration Act 1993*.

PART 9
AMENDMENT OF YOUTH COURT ACT 1993

Amendment of s. 11—Administrative and ancillary staff

19. Section 11 of the principal Act is amended by striking out from subsection (2) "employed under the *Government Management and Employment Act 1985*" and substituting "appointed under the *Courts Administration Act 1993*".

PART 10
TRANSITIONAL PROVISION

Transitional provision

20. (1) An appointment to a non-judicial office or position made or purportedly made before the commencement of this Act in accordance with an Act that is amended by this Act will be taken to have been duly made under the statutory provisions that, as amended by this Act, provide for the making of such an appointment as if this Act had been enacted and in force at the relevant time.

(2) The provisions of the *Government Management and Employment Act 1985* and the *Public Sector Management Act 1995* as from time to time in force before the commencement of this Act will be taken to have applied (with necessary modifications and exclusions) before that commencement to the staff and positions on the staff of the State Courts Administration Council in the same way as to an administrative unit and positions in an administrative unit of the Public Service.

(3) The provisions of the *Superannuation Act 1988* as from time to time in force before the commencement of this Act will be taken to have applied before that commencement to a member of the staff of the State Courts Administration Council in the same way as to a person employed in the Public Service.

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

ROMA MITCHELL Governor