**AUSTRALIAN CAPITAL TERRITORY SUPREME COURT AMENDMENT ACT 1976**

**No. 158 of 1976**

An Act to amend the *Australian Capital Territory Supreme Court Act* 1933.

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

**Short title, &c.**

**1.** (1) This Act may be cited as the *Australian Capital Territory Supreme Court Amendment Act*1976.

(2) The *Australian Capital Territory Supreme Court Act* 1933 is in this Act referred to as the Principal Act.

**Commencement.**

**2.** (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 12 and 14 shall come into operation on a date to be fixed by Proclamation, not being earlier than the day that is the commencing day for the purposes of the *Federal Court of Australia Act* 1976.

**Definitions.**

**3.** Section 5 of the Principal Act is amended—

(a) by inserting after the definition of “cause” the following definition:—

“‘Chief Judge’ means the Chief Judge of the Court, and includes a Judge for the time being performing the duties and exercising the powers of the Chief Judge;”;

(b) by inserting in the definition of “Judge” or “Judge of the Supreme Court”, after the words “a Judge” (first occurring), the words “(including the Chief Judge)”; and

(c) by omitting the definition of “the senior Judge”.

**Establishment of Supreme Court.**

**4.** Section 6 of the Principal Act is amended by omitting from sub-section (3) the words “not more than three Judges” and substituting the words “the Chief Judge and not more than 2 other Judges”.

**Appointment and tenure of Judges.**

**5.** (1) Section 7 of the Principal Act is amended—

(a) by omitting sub-sections (1) and (1a) and substituting the following sub-sections:—

“(1) Subject to section 6, the Governor-General may appoint under this sub-section, by commission, a Chief Judge of the Court and other Judges of the Court.

“(1a) A person shall not be appointed under sub-section (1) if he has attained the age of 70 years and a person shall not be so appointed unless he is or has been a Judge of a court created by the Parliament or of a court of a State or has been enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.

“(1b) The Chief Judge is the senior Judge of the Court and the other Judges appointed under sub-section (1) have seniority as between themselves 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, and Judges appointed under sub-section (1) are senior to the additional Judges.”; and

(b) by omitting sub-section (3) and substituting the following sub-section:—

“(3) The additional Judges have seniority as between themselves 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.”.

(2) Where, immediately before the commencement of this section, a person held office as a Judge appointed under sub-section 7(1) of the Principal Act, he continues in office as if he had been appointed under sub-section 7(1) of the Principal Act, as amended by this Act, but, if immediately before the commencement of this section sub-section 7(4) of the Principal Act did not apply in relation to him, then sub-section 7(4) of the Principal Act, as amended by this Act, does not apply in relation to him.

(3) Until the first appointment of a Chief Judge of the Court takes effect, the Court consists of such Judges as continue to hold office in accordance with sub-section (2) and the additional Judges.

(4) If a Judge to whom sub-section 6(3) of the *Australian Capital Territory Supreme Court Act* (*No.* 2) 1971 applies accepts appointment as the Chief Judge of the Supreme Court of the Australian Capital Territory, sub-section 7(4) of the Principal Act, as amended by this Act, does not apply in respect of his tenure of the office of Chief Judge.

**6.** After section 7 of the Principal Act the following sections are inserted:—

**Acting Chief Judge.**

“7a. Whenever—

(a) the Chief Judge is absent from Australia or from duty; or

(b) there is a vacancy in the office of Chief Judge,

the next senior Judge who is in Australia and is able and willing to do so shall perform the duties, and may exercise the powers, of the Chief Judge.

**Arrangement of business of Court.**

“7b. The Chief Judge is responsible for ensuring the orderly and expeditious discharge of the business of the 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 Court in particular matters or classes of matters.”.

**Exercise of jurisdiction.**

**7.** Section 8 of the Principal Act is amended by omitting sub-section (2).

**Exercise of jurisdiction in relation to legal practitioners.**

**8.** Section 8aa of the Principal Act is amended by omitting subsection (2).

**Power of Judge to order that jurisdiction in a matter be exercised by not less than 3 Judges.**

**9.** Section 8ab of the Principal Act is amended—

(a) by adding at the end of paragraph (a) of sub-section (4) the word “and”; and

(b) by omitting paragraph (b) of that sub-section.

**10.** Section 8b of the Principal Act is repealed and the following section substituted:—

**Salary and allowances of Judges.**

“8b. (1) The Chief Judge and the other Judges appointed under sub-section (1) of section 7 shall receive salary, annual allowances and travelling allowances at such respective rates as are fixed from time to time by the Parliament.

“(2) The salary and annual allowance to which a Judge is entitled under this section accrue from day to day and are payable monthly.

“(3) An additional Judge shall be remunerated with the salary and annual allowance that he receives as a Judge of the other court or courts of which he is a Judge.

“(4) The Consolidated Revenue Fund is appropriated to the extent necessary for payment of salaries and allowances in accordance with sub-section (1).”.

**Oath of allegiance and office by Judge.**

**11.** Section 10 of the Principal Act is amended by omitting from each of the forms the word “Judge” and substituting the words “Chief Judge [or Judge]”.

**Reference to Full Court of High Court.**

**12.** (1) Section 13 of the Principal Act is repealed.

(2) The repeal effected by this section does not affect the hearing and determination of a case or question by the High Court in pursuance of the statement of a case, reservation of a question or giving of a direction before the date of commencement of this section.

**Seal.**

**13.** Section 47 of the Principal Act is amended by omitting the words “senior Judge” and substituting the words “Chief Judge”.

**Appeals.**

**14.** Part VI of the Principal Act is repealed.

**15.** (1) Section 54 of the Principal Act is repealed and the following section substituted:—

**Interest on judgments.**

“54. A judgment debt under a judgment of the Court carries interest at such rate as is fixed by the Rules of Court from the date as of which the judgment is entered.”.

(2) Until the first Rule of Court made for the purposes of the section inserted by this section takes effect, the rate of interest for the purposes of that section is 5 per centum per annum.

**Formal amendments.**

**16.** The Principal Act is amended as set out in the Schedule.

THE SCHEDULE Section 16

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used to identify a section of that Act and substituting that number expressed in figures:—

Sections 5 (definitions of “additional Judge” and “Judge” or “Judge of the Supreme Court”), 8ac(a), 17 and 28(1).

2. The following provisions of the Principal Act are amended by omitting the words “of this Act” and “of this section” (wherever occurring):—

Sections 5 (definitions of “additional Judge” and “Judge” or “Judge of the Supreme Court”), 7(4), 8(3), 8ac(a) and 28(1).

3. The Principal Act is further amended as set out below:—

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| Provision | Amendment |
| Section 3 | Omit “first day of January, One thousand nine hundred and thirty-four”, substitute “1 January 1934” |
| Section 11(a) | Omit “first day of January, One thousand nine hundred and eleven”, substitute “1 January 1911” |