

NORTHERN TERRITORY SUPREME COURT AMENDMENT ACT 1976

No. 159 of 1976

An Act to amend the *Northern Territory Supreme Court Act 1961*.

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

1. (1) This Act may be cited as the *Northern Territory Supreme Court Amendment Act 1976*.¹ Short title,
&c.

(2) The *Northern Territory Supreme Court Act 1961*² is in this Act referred to as the Principal Act.

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

(2) Section 12 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*.

3. Section 5 of the Principal Act is amended—

Definitions.

(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”.

4. Section 6 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

Establish-
ment of
Supreme
Court.

“(2) The Court shall consist of the Chief Judge and not more than 3 other Judges appointed under sub-section (1) of section 7 and the additional Judge or Judges appointed under sub-section (2) of that section.”.

Appoint-
ment 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.

(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.

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.

“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.”

Arrangement
of business
of Court.

7. Section 9 of the Principal Act is repealed and the following section substituted:—

“9. (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.

Salary and
allowances
of Judges.

“(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).”

8. Section 13 of the Principal Act is amended by omitting sub-section (2).

Exercise of
jurisdiction.

9. Section 13A of the Principal Act is amended by omitting sub-section (2).

Exercise of
jurisdiction
in relation to
legal
practitioners.

10. Section 13B 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.

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

11. Section 30 of the Principal Act is amended by omitting from sub-sections (3), (4) and (5) the words “senior Judge” and substituting the words “Chief Judge”.

Seals and
Stamps.

12. Part VI of the Principal Act is repealed.

Appeals.

13. Section 55 of the Principal Act is amended by omitting the words “The Senior Judge” and substitute the words “The Judges appointed under sub-section (1) of section 7 or any two of those Judges”.

Rules of
Court.

The
Schedule.

14. The Schedule to the Principal Act is amended by omitting from each of the forms the word “Judge” and substituting the words “Chief Judge [or Judge]”.

NOTES

1. Act No. 159, 1976; assented to 9 December 1976.
2. Act No. 11, 1961, as amended. For previous amendments *see* Act No. 92, 1965; No. 93, 1966; No. 116, 1968; No. 40, 1969; No. 99, 1971; No. 216, 1973 (as amended by No. 20, 1974); No. 220, 1973; and No. 84, 1975.