



# High Court of Australia Act 1979

No. 137, 1979

## Compilation No. 15

<b>Compilation date:</b>	21 October 2016
<b>Includes amendments up to:</b>	Act No. 61, 2016
<b>Registered:</b>	24 October 2016

Prepared by the Office of Parliamentary Counsel, Canberra

---

## About this compilation

### This compilation

This is a compilation of the *High Court of Australia Act 1979* that shows the text of the law as amended and in force on 21 October 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

---

# Contents

<b>Part I—Preliminary</b>	1
1 Short title.....	1
2 Commencement.....	1
3 Repeal.....	1
4 Interpretation.....	1
4A Application of the <i>Criminal Code</i> .....	3
<b>Part II—Constitution and seat of the High Court</b>	4
<b>Division 1—Justices of the High Court</b>	4
5 The High Court.....	4
6 Consultation with State Attorneys-General on appointment of Justices.....	4
7 Qualification of Justices.....	4
8 Seniority.....	4
9 Acting Chief Justice.....	5
10 Justices not to hold other office.....	5
11 Oath or affirmation of allegiance and of office.....	5
12 Salary and allowances.....	5
13 Appropriation.....	6
<b>Division 2—Seat of the High Court</b>	7
14 Seat.....	7
15 Places of sittings.....	7
16 Judgment may be pronounced at any sitting.....	7
<b>Part III—Administration of the High Court</b>	8
17 Administration of the Court.....	8
18 Chief Executive and Principal Registrar of the Court.....	9
19 Functions and powers of the Chief Executive and Principal Registrar.....	9
20 Terms and conditions of appointment.....	10
21 Remuneration and allowances.....	10
22 Leave of absence.....	10
23 Resignation.....	11
24 Termination of appointment.....	11
25 Acting Chief Executive and Principal Registrar.....	11
26 Officers and employees.....	13
27 Marshal and Deputy Marshals.....	13

28	Certain officers may administer oaths and affirmations .....	14
<b>Part IV—Registry and procedure</b>		15
30	Registry .....	15
31	Transfer of proceedings .....	16
32	Seals .....	16
33	Writs etc. ....	17
34	Date of process .....	17
<b>Part V—Finance</b>		18
35	Moneys appropriated for the Court.....	18
36	Estimates .....	18
37	Application of moneys appropriated for the Court .....	18
38	Trust moneys .....	19
39	Other moneys .....	19
40	Limitation on contracts.....	19
41	Accounts with ADIs .....	20
42	Proper accounts to be kept.....	20
43	Audit.....	20
44	Exemption from taxation .....	21
<b>Part VI—Miscellaneous</b>		22
45	Proceedings in respect of administration of the Court .....	22
46	Exercise of powers of the Court in administrative matters .....	22
47	Annual reports and financial statements .....	23
48	Rules of Court .....	23
49	Regulations.....	24
<b>Schedule</b>		25
<b>Endnotes</b>		26
<b>Endnote 1—About the endnotes</b>		26
<b>Endnote 2—Abbreviation key</b>		28
<b>Endnote 3—Legislation history</b>		29
<b>Endnote 4—Amendment history</b>		33

# To make provision with respect to the High Court of Australia

## Part I—Preliminary

### 1 Short title

This Act may be cited as the *High Court of Australia Act 1979*.

### 2 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

### 3 Repeal

The following Acts are repealed:

*High Court Procedure Act 1903*;  
*High Court Procedure Amendment Act 1903*;  
*High Court Procedure Act 1915*;  
*High Court Procedure Act 1921*;  
*High Court Procedure Act 1925*;  
*High Court Procedure Act 1933*.

### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

**ADI** (authorised deposit-taking institution) means:

- (a) the Reserve Bank of Australia; or
- (b) a body corporate that is an ADI for the purposes of the *Banking Act 1959* and that is approved in writing for the purposes of the provision in which the expression occurs:
  - (i) by the Treasurer; or

Section 4

---

- (ii) by a person authorised in writing by the Treasurer to give the approval; or
- (c) any other bank approved in writing for the purposes of the provision in which the expression occurs:
  - (i) by the Treasurer; or
  - (ii) by a person authorised in writing by the Treasurer to give the approval.

**appoint** includes *re-appoint*.

**Chief Executive and Principal Registrar** means the Chief Executive and Principal Registrar of the Court appointed under section 18.

**Chief Justice** includes a Justice for the time being performing the duties and exercising the powers of the Chief Justice.

**Court** means the High Court.

**Deputy Registrar** means a Deputy Registrar of the Court appointed under subsection 26(1).

**Deputy Marshal** means a Deputy Marshal of the Court appointed under subsection 26(1).

**Finance Minister** means the Minister who administers the *Public Governance, Performance and Accountability Act 2013*.

**Justice** means a Justice of the Court and includes the Chief Justice.

**Marshal** means the Marshal of the Court appointed under subsection 26(1).

**Minister**, in relation to a State or the Northern Territory, means:

- (a) in the case of a State—a Minister of the Crown of that State; or
- (b) in the case of the Northern Territory—a person holding Ministerial Office under section 36 of the *Northern Territory (Self-Government) Act 1978*.

***proceeding*** means any proceeding in the Court whether civil or criminal and whether in the original or appellate jurisdiction of the Court.

***Rules of Court*** means Rules of Court under section 86 of the *Judiciary Act 1903*.

***Senior Registrar*** means the Senior Registrar of the Court appointed under subsection 26(1).

- (2) Any reference in this Act to moneys or property does not include a reference to moneys or property received by the High Court in connection with a proceeding.

#### **4A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## **Part II—Constitution and seat of the High Court**

### **Division 1—Justices of the High Court**

#### **5 The High Court**

The High Court is a superior court of record and consists of the Chief Justice and six other Justices appointed by the Governor-General by commission.

#### **6 Consultation with State Attorneys-General on appointment of Justices**

Where there is a vacancy in an office of Justice, the Attorney-General shall, before an appointment is made to the vacant office, consult with the Attorneys-General of the States in relation to the appointment.

#### **7 Qualification of Justices**

A person shall not be appointed as a Justice unless:

- (a) he or she is or has been a Judge of a court created by the Parliament or of a court of a State or Territory (other than a Judge or acting Judge of the Local Court of the Northern Territory); or
- (b) he or she has been enrolled as a barrister or solicitor, as a barrister and solicitor, or as a legal practitioner, of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.

#### **8 Seniority**

The Justices other than the Chief Justice have seniority according to the dates of their commissions or, where the commissions of two or more Justices bear the same date, according to the precedence assigned to them by their commissions.



## **9 Acting Chief Justice**

Whenever:

- (a) the Chief Justice is absent from Australia or is unable or unavailable to perform the duties of his or her office; or
- (b) there is a vacancy in the office of Chief Justice;

the next senior Justice who is in Australia and is able and willing to do so shall perform the duties, and may exercise the powers, of the Chief Justice, and shall, during any period of absence of the Chief Justice from Australia or during a vacancy in the office of Chief Justice, be designated Acting Chief Justice.

## **10 Justices not to hold other office**

A Justice is not capable of accepting or holding any other office of profit within Australia.

## **11 Oath or affirmation of allegiance and of office**

A person who is appointed as a Justice after the commencement of this Act shall, before proceeding to discharge the duties of his or her office, take an oath or make an affirmation in accordance with the form in the Schedule.

## **12 Salary and allowances**

- (1) The Chief Justice and the other Justices shall receive salary and annual allowances at such respective rates as are fixed from time to time by the Parliament.
- (2) The salary and annual allowance of a Justice accrue from day to day and are payable monthly.
- (3) The Chief Justice and the other Justices shall receive such respective allowances in respect of travelling expenses as are provided by the Parliament.

**Part II** Constitution and seat of the High Court

**Division 1** Justices of the High Court

Section 13

---

**13 Appropriation**

The salaries, annual allowances and other allowances referred to in section 12 are payable out of the Consolidated Revenue Fund, which, to the necessary extent, is appropriated accordingly.

## **Division 2—Seat of the High Court**

### **14 Seat**

On and after a date to be fixed by Proclamation, the seat of the High Court shall be at the seat of Government in the Australian Capital Territory.

### **15 Places of sittings**

Sittings of the High Court shall be held from time to time as required at the seat of the Court but the Court may sit at other places within Australia and the external Territories.

### **16 Judgment may be pronounced at any sitting**

The High Court may pronounce judgment at a sitting of the Court held at a place other than the place at which the relevant proceeding was held by the Court.

## Part III—Administration of the High Court

### 17 Administration of the Court

- (1) The High Court shall administer its own affairs subject to, and in accordance with, this Act.
- (2) The Court has power for the purposes of the Court to do all things that are necessary or convenient to be done for or in connection with the administration of its affairs and, without limiting the generality of the foregoing, has power:
  - (a) to enter into contracts;
  - (b) to acquire, hold and dispose of real and personal property;
  - (c) to take on hire, to exchange, and to accept on deposit or loan, library material, and also furnishings, equipment and goods needed for the purposes of the Court;
  - (d) to control and manage any land or building occupied by the Court and any adjacent land or building that is declared by Proclamation to be part of the precincts of the Court;
  - (e) to accept gifts, devises and bequests made to the Court upon trust and act as trustee of moneys or other property vested in the Court upon trust; and
  - (f) to do such other things as it is authorized by this Act to do.
- (3) Any real property, and any personal property (other than money), held by the Court shall be deemed to be the property of the Commonwealth.
- (4) For the purposes of the *Lands Acquisition Act 1989*, the Court shall be deemed to be an authority incorporated by a law of the Commonwealth.
- (5) The Court may appoint committees consisting of Justices, or of Justices and other persons, for the purpose of advising the Court in relation to:
  - (a) the exercise of the powers of the Court under this Act; or

(b) the making of Rules of Court.

### **18 Chief Executive and Principal Registrar of the Court**

There shall be a Chief Executive and Principal Registrar of the High Court, who shall be appointed by the Governor-General upon the nomination of the Court.

### **19 Functions and powers of the Chief Executive and Principal Registrar**

- (1) The Chief Executive and Principal Registrar has the function of acting on behalf of, and assisting, the Justices in the administration of the affairs of the High Court under section 17 and has such other functions as are conferred on him or her by this Act or are assigned to him or her by the Court.
- (2) The Chief Executive and Principal Registrar has power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions and, in particular, has power, on behalf of the Court, to give directions, by legislative instrument, for the purpose of regulating the conduct of persons on any land or in any building referred to in paragraph 17(2)(d).
- (3) Directions under subsection (2) commence at the start of the day after the day they are registered under the *Legislation Act 2003*.
- (6) A person who contravenes or fails to comply with a direction in force under subsection (2) commits an offence.

Penalty: 1 penalty unit.

- (6A) Subsection (6) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (7) In the performance of his or her functions and the exercise of his or her powers the Chief Executive and Principal Registrar shall comply with any directions given to him or her by the Court.

Section 20

---

- (8) Nothing in this section affects the power of the Court to punish contempts of the Court.

**20 Terms and conditions of appointment**

- (1) The Chief Executive and Principal Registrar holds office for such period, not exceeding 5 years, as is specified in the instrument of his or her appointment, but is eligible for re-appointment.
- (3) The Chief Executive and Principal Registrar holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Court.

**21 Remuneration and allowances**

- (1) The Chief Executive and Principal Registrar shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he or she shall be paid such remuneration as is prescribed by Rules of Court.
- (2) The Chief Executive and Principal Registrar shall be paid such allowances as are prescribed by Rules of Court.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) Subsection 7(9) of the *Remuneration Tribunal Act 1973* has effect in relation to the remuneration and allowances payable to the Chief Executive and Principal Registrar, as if the High Court were a public statutory corporation and the Chief Executive and Principal Registrar held an office in the service of that corporation.

**22 Leave of absence**

- (1) The Chief Executive and Principal Registrar has such recreation leave entitlements as are determined by the Remuneration Tribunal.

- (2) The High Court may grant the Chief Executive and Principal Registrar leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Court determines.

### **23 Resignation**

The Chief Executive and Principal Registrar may resign his or her office by writing signed by him or her and delivered to the Governor-General.

### **24 Termination of appointment**

- (1) The Governor-General may terminate the appointment of the Chief Executive and Principal Registrar by reason of the misbehaviour or the physical or mental incapacity of the Chief Executive and Principal Registrar.
- (2) If the Chief Executive and Principal Registrar:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
  - (b) is absent from duty, except with leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (c) without the approval of the Court, engages in paid employment outside the duties of his or her office;
- the Governor-General shall terminate the appointment of the Chief Executive and Principal Registrar.
- (3) The powers of the Governor-General under subsection (1) shall be exercised only in accordance with advice that is consistent with recommendations by the Court.

### **25 Acting Chief Executive and Principal Registrar**

- (1) The High Court may appoint a person to act as Chief Executive and Principal Registrar:

Section 25

---

- (a) during a vacancy in the office of Chief Executive and Principal Registrar, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Chief Executive and Principal Registrar is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his or her office;
- but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of his or her appointment.
  - (3) The Court may:
    - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Chief Executive and Principal Registrar; and
    - (b) terminate such an appointment at any time.
  - (4) Where a person is acting as Chief Executive and Principal Registrar in accordance with paragraph (1)(b) and the office of Chief Executive and Principal Registrar becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Court otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
  - (5) The appointment of a person to act as Chief Executive and Principal Registrar ceases to have effect if he or she resigns his or her office by writing signed by him or her and delivered to the Chief Justice.
  - (6) While a person is acting as Chief Executive and Principal Registrar, he or she has and may exercise all the powers of, and shall perform all the functions of, the Chief Executive and Principal Registrar under this Act or any other law.



- (7) The validity of anything done by a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there is a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had passed.

## **26 Officers and employees**

- (1) The Chief Executive and Principal Registrar is to appoint such other officers of the High Court as the Court considers necessary.
- (3) The Chief Executive and Principal Registrar may engage such employees as the Court considers necessary for the purposes of the Court.
- (4) The terms and conditions of employment (including terms and conditions as to remuneration and allowances) of officers or employees appointed or engaged in accordance with this section are such as are determined by the Court.
- (5) An appointment under subsection (1) is not a public office for the purposes of the *Remuneration Tribunal Act 1973*.
- (6) The Chief Executive and Principal Registrar may, on behalf of the Court, arrange with an Agency Head within the meaning of the *Public Service Act 1999*, or with an authority of the Commonwealth, for the services of officers or employees of the Agency or of the authority, as the case may be, to be made available for the purposes of the Court.
- (7) The Senior Registrar and Deputy Registrars are to perform such duties in respect of proceedings in the Court as are assigned to them by Rules of Court, by an order of the Court or by the Chief Executive and Principal Registrar.

## **27 Marshal and Deputy Marshals**

- (1) The Marshal:

Section 28

---

- (a) is charged with the service and execution of all writs, summonses, orders, warrants, precepts, process and commands of the Court that are directed to him or her; and
  - (b) shall take, receive and detain all persons who are committed to his or her custody by the Court, and shall discharge all such persons when directed by the Court or otherwise required by law.
- (2) A Deputy Marshal may, subject to any directions of the Marshal, exercise any power or perform any function of the Marshal.
  - (3) The Marshal or a Deputy Marshal may authorize such persons as he or she thinks fit to assist him or her in the exercise of any power or performance of any function by him or her, and any act done by a person so appointed shall be deemed to be done by and under the authority of the Marshal or Deputy Marshal, as the case may be.
  - (4) If the Marshal or a Deputy Marshal is a party to a proceeding in the Court, all writs, summonses, orders, warrants, precepts, process and commands in the proceeding that should, in the ordinary course, be directed to the Marshal or Deputy Marshal shall be directed to such disinterested person as the Court appoints, and the person so appointed may execute and return them.
  - (5) The Minister may arrange with the appropriate Minister of a State or of the Northern Territory for an officer or officers of that State or Territory to perform the functions of a Deputy Marshal in that State or Territory.
  - (6) A copy of an arrangement made under subsection (5) shall be published in the *Gazette*.

**28 Certain officers may administer oaths and affirmations**

The Chief Executive and Principal Registrar, the Senior Registrar, the Deputy Registrars and any other persons authorized by Rules of Court may administer oaths and affirmations for the purposes of any proceedings in the Court.

## **Part IV—Registry and procedure**

### **30 Registry**

- (1) There shall be a Registry of the High Court, which shall be at the seat of the Court.
- (2) The Registry shall be under the control of the Chief Executive and Principal Registrar.
- (3) There shall be an office of the Registry at the seat of the Court, at the capital city of each State, at Darwin in the Northern Territory and at such other places as the Court deems necessary.
- (4) The Minister may arrange with the appropriate Minister of a State or of the Northern Territory for an officer or officers of that State or Territory to perform on behalf of the Court at any office in that State or Territory of the Registry of the Court all or any of the functions referred to in subsection (6).
- (5) The Chief Justice may arrange with the Chief Justice of the Federal Court of Australia for an officer or officers of the Federal Court of Australia to perform on behalf of the High Court at an office or offices of the Registry of the High Court referred to in the arrangement all or any of the functions referred to in subsection (6).
- (6) The functions to which an arrangement under subsection (4) or (5) may relate are:
  - (a) the receipt of documents to be lodged with or filed in the High Court;
  - (b) the signing and issuing of writs, commissions and process;
  - (c) the administration of oaths and affirmations for the purposes of any proceedings in the High Court; and
  - (d) such other functions as are permitted by Rules of Court to be performed in pursuance of such an arrangement.

## Section 31

---

- (7) Documents received at any office of the Registry for lodgment with or filing in the Court shall be deemed to be received at the Registry.
- (8) A copy of an arrangement made under subsection (4) or (5) shall be published in the *Gazette*.
- (9) Where an office of the Registry is established at a place not specifically mentioned in subsection (3), a notice stating that an office of the Registry has been established at that place shall be published in the *Gazette*.

### 31 Transfer of proceedings

- (1) Subject to section 80 of the Constitution, the High Court may, at any stage of a proceeding, direct that the proceeding or a part of the proceeding be held or continued at a place specified in the order, subject to such conditions (if any) as the Court imposes.
- (2) The Rules of Court may make provision for the transmission of documents between offices of the Registry of the Court, including transmission by telegraph, telex or any similar means of communication.

### 32 Seals

- (1) The High Court shall have a seal on which are inscribed the words “The Seal of the High Court of Australia”.
- (2) A duplicate of the seal of the Court shall be kept at each office of the Registry of the Court.
- (3) Such other seals as are required for the business of the Court shall be kept and used at each office of the Registry and shall be in such form and kept in such custody as the Chief Justice directs.
- (4) A document, a copy of a document or an exemplification purporting to be sealed with the seal of the High Court or a duplicate of that seal, or with a seal referred to in subsection (3), is receivable in evidence without further proof of the seal.

### **33 Writs etc.**

All writs, commissions and process issued from the High Court shall be:

- (a) in the name of the Queen;
- (b) under the seal of the Court or a duplicate of that seal or such other seal as is prescribed by Rules of Court; and
- (c) signed by:
  - (i) the Chief Executive and Principal Registrar or an officer acting with the authority of the Chief Executive and Principal Registrar; or
  - (ii) an officer authorized by an arrangement in force under subsection 30(4) or (5) or a person acting with the authority of such an officer.

### **34 Date of process**

All writs, commissions and process issued from the High Court shall be dated as of the day on which they are issued.

## Part V—Finance

### 35 Moneys appropriated for the Court

- (1) There are payable to the High Court such moneys as are appropriated by the Parliament for the purposes of the Court.
- (2) The Finance Minister may give directions as to the amounts in which, and the times at which, moneys referred to in subsection (1) are to be paid to the Court.

### 36 Estimates

- (1) The High Court shall prepare estimates, in such form as the Minister approves, of receipts and expenditure in respect of the administration of the affairs of the Court under section 17 for each financial year and, if so requested by the Minister, for any other period, and shall submit estimates so prepared to the Minister not later than such date as the Minister specifies.
- (2) Moneys paid to the Court under section 35 shall not be expended otherwise than in accordance with the estimates of expenditure approved by the Minister.

### 37 Application of moneys appropriated for the Court

Moneys paid to the High Court under section 35 shall be applied only:

- (a) in payment or discharge of the costs and expenses of the administration of the affairs of the Court under section 17; and
- (b) in payment of any remuneration and allowances payable under this Act to any person other than a Justice.

**38 Trust moneys**

- (1) A separate account or separate accounts shall be kept in the books of the High Court in respect of moneys held by the Court upon trust.
- (2) Any moneys or other property held by the Court upon trust shall be dealt with in accordance with the powers and duties of the Court as trustee.

**39 Other moneys**

- (1) Any moneys held by the Court other than:
  - (a) moneys held by the Court upon trust; and
  - (b) moneys paid to the Court under section 35;may be expended for the purposes of the Court.
- (2) Moneys to which subsection (1) applies that are not immediately required to be expended may be invested:
  - (a) on deposit with an ADI;
  - (b) in securities of the Commonwealth; or
  - (c) in any other manner approved by the Finance Minister.
- (3) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under this section to an official (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) of a non-corporate Commonwealth entity (within the meaning of that Act). In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

**40 Limitation on contracts**

The High Court shall not, except with the approval of the Minister, enter into a contract under which the Court is to pay or to receive an amount exceeding \$250,000 or, if a higher amount is prescribed, that higher amount.

Section 41

---

**41 Accounts with ADIs**

- (1) The Chief Executive and Principal Registrar may, on behalf of and in the name of the High Court, open and maintain an account or accounts with an ADI or ADIs and shall maintain at all times at least one such account.
- (2) The Chief Executive and Principal Registrar shall pay all moneys received by the Court into an account referred to in this section.

**42 Proper accounts to be kept**

The High Court shall cause to be kept proper accounts and records of the transactions and affairs relating to the administration of the affairs of the Court under section 17 and shall do all things necessary to ensure that all payments out of the moneys held by the Court are correctly made and properly authorized and that adequate control is maintained over the assets held by, or in the custody of, the Court and over the incurring of liabilities by the Court.

**43 Audit**

- (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions relating to the administration of the affairs of the High Court under section 17 and the records relating to assets held by, or in the custody of, the Court and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his or her so doing.
- (2) The Auditor-General may, at his or her discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).
- (3) The Auditor-General shall, at least once in each financial year, report to the Minister the results of the inspection and audit carried out under subsection (1).



- (4) The Auditor-General or a person authorized by him or her is entitled at all reasonable times to full and free access to all accounts and records maintained by the Court relating directly or indirectly to the receipt or payment of moneys, or to the acquisition, receipt, custody or disposal of assets, by the Court.
- (5) The Auditor-General or a person authorized by him or her may make copies of, or take extracts from, any such accounts and records.
- (6) The Auditor-General or a person authorized by him or her may require any person to furnish him or her with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.
- (7) A person who contravenes subsection (6) commits an offence and is punishable, upon conviction, by a fine not exceeding 2 penalty units.
- (8) Subsection (7) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

#### **44 Exemption from taxation**

The High Court is not subject to taxation under any law of the Commonwealth or of a State or Territory.

## **Part VI—Miscellaneous**

### **45 Proceedings in respect of administration of the Court**

Any judicial or other proceedings relating to matters arising out of the administration of the affairs of the High Court under section 17, including any proceedings relating to matters arising out of the performance of the functions or the exercise of the powers of the Chief Executive and Principal Registrar under this Act, may be instituted by or against the Commonwealth, as the case requires.

### **46 Exercise of powers of the Court in administrative matters**

- (1) Subject to this section, the powers of the High Court under this Act may be exercised by the Justices or by a majority of them.
- (2) The Court may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Justices or a majority of them, delegate all or any of the powers of the Court under this Act (except this power of delegation) to any one or more of the Justices.
- (3) A power so delegated, when exercised by the delegate or delegates, shall, for the purposes of this Act, be deemed to have been exercised by the Court.
- (4) A delegation under this section does not prevent the exercise of a power by the Court.
- (5) A decision of the Court, or of a delegate or delegates of the Court, in exercise of a power under this Act may be made known by the Chief Justice, who may give any directions or take any other action necessary to give effect to the decision.

**47 Annual reports and financial statements**

- (1) The High Court shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister a report relating to the administration of the affairs of the Court under section 17 during the year that ended on that 30 June, together with financial statements in respect of that year in such form as the Finance Minister approves.
- (2) Before submitting financial statements to the Minister under subsection (1), the Court shall submit them to the Auditor-General, who shall report to the Minister:
  - (a) whether, in his or her opinion, the statements are based on proper accounts and records;
  - (b) whether the statements are in agreement with the accounts and records;
  - (c) whether, in his or her opinion, the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Court during the year have been in accordance with this Act; and
  - (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.
- (3) The Minister shall cause a copy of the report and financial statements of the Court together with a copy of the report of the Auditor-General to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

**48 Rules of Court**

The power of the Justices or of a majority of them to make Rules of Court under section 86 of the *Judiciary Act 1903* extends to making any Rules of Court required or permitted by this Act to be made or necessary or convenient to be made for carrying into effect the provisions of this Act.

Section 49

---

**49 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

---

## Schedule

### Section 11

I, \_\_\_\_\_, do swear that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the Office of Chief Justice [*or* Justice] of the High Court of Australia and that I will do right to all manner of people according to law without fear or favour, affection or ill-will. So Help me God!

*or*

I, \_\_\_\_\_, do solemnly and sincerely promise and declare that [as above, omitting the words “So help me God!”].

## Endnotes

Endnote 1—About the endnotes

---

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

---

Endnote 1—About the endnotes

---

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

---

#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced



## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
High Court of Australia Act 1979	137, 1979	23 Nov 1979	21 Apr 1980 (s 2 and gaz 1980, No S82) s 14—The date fixed by Proclamation was 1 Sept 1980 (gaz 1980, No S193)	
Public Service Reform Act 1984	63, 1984	25 June 1984	s 151(1), (9): 1 July 1984 s 2(4) and (gaz 1984, No S245)	s 151(9)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	Sch 1: 3 July 1985 (s 2(1))	—
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	Sch: 2 Dec 1988 (s 2)	—
Lands Acquisition (Repeal and Consequential Provisions) Act 1989	21, 1989	20 Apr 1989	Sch 2: 9 June 1989 (s 2)	—
Courts and Tribunals Administration Amendment Act 1989	157, 1989	5 Dec 1989	s 17, 18: 5 Dec 1989 (s 2(1))	—
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	s 31: 10 Dec 1991 (s 2(3) and gaz 1991, No S332)	s 31(2)

*High Court of Australia Act 1979*

29

Compilation No. 15

Compilation date: 21/10/16

Registered: 24/10/16

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Prime Minister and Cabinet Legislation Amendment Act 1991	199, 1991	18 Dec 1991	Sch 2: 18 Dec 1991 (s 2)	—
Law and Justice Legislation Amendment Act 1993	13, 1994	18 Jan 1994	s 27–34: 11 Apr 1994 (s 2 (3) and gaz 1994, No S126)	s 34
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 4 (items 87, 88) and Sch 5 (items 72–74): 25 Oct 1996 (s 2(1))	—
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Sch 16 (item 29): 25 May 1997 (s 2(3))	—
Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999	44, 1999	17 June 1999	Sch 6 (items 21–24) and Sch 8 (item 21): 17 June 1999 (s 3(1))	—
Law and Justice Legislation Amendment Act 1999	125, 1999	13 Oct 1999	Sch 8: 13 Oct 1999 (s 2(1))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 511–514): 5 Dec 1999 (s 2(1), (2))	—
Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001	24, 2001	6 Apr 2001	s 4(1), (2) and Sch 31: 24 May 2001 (s 2(1)(a))	s 4(1) and (2)
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	Sch 1 (items 62, 97): 29 Oct 2001 (s 2(1))	Sch 1 (item 97)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	Sch 2 (items 125–129, 174): 22 Feb 2005 (s 2(1) item 12)	Sch 2 (item 174)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (items 159, 160) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 3 (items 219, 220, 348, 349): 5 Mar 2016 (s 2(1) item 2)	Sch 3 (items 348, 349)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 184): 10 Mar 2016 (s 2(1) item 6)	—

## Endnotes

### Endnote 3—Legislation history

---

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Law and Justice Legislation Amendment (Northern Territory Local Court) Act 2016	26, 2016	23 Mar 2016	Sch 1 (items 22, 34, 35): 1 May 2016 (s 2(1) item 2)	Sch 1 (items 34, 35)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 273, 274): 21 Oct 2016 (s 2(1) item 1)	—

## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part I</b>	
s 4 .....	am No. 13, 1994; No. 44, 1999; No. 8, 2005; No 62, 2014
s 4A .....	ad No. 24, 2001
<b>Part II</b>	
<b>Division 1</b>	
s 7 .....	am No 43, 1996; No 26, 2016
s 9 .....	am No. 43, 1996
s 11 .....	am No. 43, 1996
<b>Part III</b>	
s 17 .....	am No. 21, 1989
s 18 .....	am No. 13, 1994
s 19 .....	am No. 99, 1988; No. 13, 1994; No. 43, 1996; No. 24, 2001; No 10, 2015; No 4, 2016; No 61, 2016
s 20 .....	am No. 199, 1991; No. 13, 1994; No. 43, 1996; No. 159, 2001
s 21 .....	am No. 13, 1994; No. 43, 1996
s 22 .....	rs No. 122, 1991 am No. 13, 1994; No. 146, 1999
s 23 .....	am No. 13, 1994; No. 43, 1996
s 24 .....	am No. 122, 1991; No. 13, 1994; No. 43, 1996
s 25 .....	am No. 13, 1994; No. 43, 1996; No. 146, 1999
s 26 .....	am No. 63, 1984; No. 199, 1991; No. 13, 1994; No. 146, 1999
s 27 .....	am No. 43, 1996
s 28 .....	am No. 13, 1994
s 29 .....	rep No. 65, 1985
<b>Part IV</b>	
s 30 .....	am No. 13, 1994; No. 60, 1996
s 33 .....	am No. 13, 1994

## Endnotes

### Endnote 4—Amendment history

---

<b>Provision affected</b>	<b>How affected</b>
<b>Part V</b>	
s 35 .....	am No. 8, 2005
s 39 .....	am No. 44, 1999; No. 8, 2005; No 62, 2014
s 40 .....	am No. 157, 1989
s 41 .....	am No. 13, 1994; No. 44, 1999
s 43 .....	am No. 43, 1996; No. 24, 2001; No 4, 2016; No 61, 2016
<b>Part VI</b>	
s 45 .....	am No. 13, 1994
s 47 .....	am No. 43, 1996; No. 8, 2005
s 49 .....	ad No. 125, 1999