

AUSTRALIAN CAPITAL TERRITORY SUPREME COURT.

No. 43 of 1958.

An Act to amend the *Australian Capital Territory Supreme Court Act 1933-1957*, and for other purposes.

[Assented to 29th September, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Australian Capital Territory Supreme Court Act 1958*.

(2.) The *Australian Capital Territory Supreme Court Act 1933-1957** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian Capital Territory Supreme Court Act 1933-1958*.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Definitions.

3. Section five of the Principal Act is amended—

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

“ ‘additional Judge’ means a Judge appointed under sub-section (2.) of section seven of this Act; ”;

(b) by inserting after the definition of “defendant” the following definition:—

“ ‘Judge’, in the expressions ‘the Supreme Court or the Judge’, ‘the Court or the Judge’ and ‘the Court or Judge’, means the Judge sitting in Chambers; ”; and

(c) by omitting the definition of “the Judge” and inserting in its stead the following definitions:—

“ ‘the Court’ means the Supreme Court;

“ ‘the Judge’ or ‘the Judge of the Supreme Court’ means the Judge appointed under sub-section (1.) of section seven of this Act or an additional Judge; ”.

* Act No. 34, 1933, as amended by No. 27, 1935; No. 57, 1945; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 36, 1955; No. 47, 1956; and No. 34, 1957.

4. Section six of the Principal Act is amended—

Establishment
of Supreme
Court.

(a) by omitting from sub-section (2.) the words “ and shall consist of one Judge ”; and

(b) by adding at the end thereof the following sub-section:—

“ (3.) The Court shall consist of one Judge appointed under sub-section (1.) of the next succeeding section and the additional Judge or Judges appointed under sub-section (2.) of that section.”.

5. Sections seven, eight and eight A of the Principal Act are repealed and the following sections inserted in their stead:—

“ 7.—(1.) The Governor-General may appoint, by commission, a person who is or has been a practising barrister or solicitor of the High Court or of the Supreme Court of a State of not less than five years’ standing to be a Judge of the Supreme Court.

Appointment of
Judge and
additional
Judges.

“ (2.) The Governor-General may appoint, by commission, a person who, or persons each of whom, is a Judge of another court created by the Parliament to be an additional Judge or additional Judges of the Supreme Court.

“ (3.) The Judges appointed under the last preceding sub-section have seniority as additional Judges of the Supreme Court according to the dates of their commissions.

“ (4.) The person holding office as the Judge of the Supreme Court immediately before the commencement of this section shall, for the purposes of this Act, be deemed to have been appointed under sub-section (1.) of this section.

“ 8.—(1.) The jurisdiction of the Supreme Court is exercisable by one Judge, sitting in Court, or, to the extent provided by this Act, sitting in Chambers.

Exercise of
jurisdiction.

“ (2.) The Judge appointed under sub-section (1.) of the last preceding section may, from time to time, make arrangements as to which Judge is to exercise the jurisdiction of the Court.

“ (3.) Where—

(a) the Judge appointed under sub-section (1.) of the last preceding section is, by reason of absence or for any other reason, unable to discharge the duties of his office, or the Judge so appointed has died or otherwise ceased to hold office and a Judge has not been appointed in his place; and

(b) there are two or more additional Judges of the Court, the senior additional Judge may, from time to time, make arrangements as to which of the additional Judges is to exercise the jurisdiction of the Court.

Holding of
other offices.

“ 8A.—(1.) A person appointed under sub-section (1.) of section seven of this Act to be a Judge of the Supreme Court is capable of holding, in addition to the office of Judge of that Court, one or more of the following offices:—

- (a) the office of Judge Advocate-General of a part of the Defence Force;
- (b) a judicial office in relation to a Territory of the Commonwealth other than the Australian Capital Territory;
- (c) any other office (not being an office of profit) if his appointment to that other office is made or approved by the Governor-General.

“ (2.) Where a person referred to in the last preceding sub-section also holds an office referred to in paragraph (a) or (b) of that sub-section, he shall be remunerated only with the salary that he receives as a Judge of the Supreme Court.”.

Salaries and
travelling
expenses.

6. Section eight B of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word “ Judge ”, the words “ appointed under sub-section (1.) of section seven of this Act ”;
- (b) by inserting after sub-section (1.) the following sub-section:—

“ (1A.) An additional Judge shall be remunerated with the salary that he receives as a Judge of the other court of which he is a Judge.”;
- (c) by omitting from sub-section (2.) the words “ The Judge ” and inserting in their stead the words “ A Judge of the Supreme Court ”; and
- (d) by omitting from sub-section (7.) the words “ Salaries under this section ” and inserting in their stead the words “ The salary of the Judge appointed under sub-section (1.) of section seven of this Act ”.

Oath of
allegiance
and office.

7. Section ten of the Principal Act is amended by omitting the words “ The Judge and an Acting Judge ” and inserting in their stead the words “ Each Judge ”.

Amendment of
Judges'
Pensions Act.

8.—(1.) The *Judges' Pensions Act* 1948–1956, as amended by the *Judges' Pensions Act* 1958, is amended by omitting from section four the words “ the Judge of the Supreme Court of the Australian Capital Territory ” and inserting in their stead the words “ a Judge of the Supreme Court of the Australian Capital Territory appointed otherwise than under sub-section (2.) of section seven of the *Australian Capital Territory Supreme Court Act* 1933–1958 ”.

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(2.) Section one of the *Judges' Pensions Act* 1958 is amended by omitting sub-section (2.).

(3.) The *Judges' Pensions Act* 1948-1956, as amended by the *Judges' Pensions Act* 1958 and by this Act, may be cited as the *Judges' Pensions Act* 1948-1958.
