

Australian Capital Territory Supreme Court

No. 156 of 1968

An Act to amend the *Australian Capital Territory Supreme Court Act 1933–1966*.

[Assented to 10 December 1968]

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 1968*.

(2.) The *Australian Capital Territory Supreme Court Act 1933–1966** 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 1933–1968*.

Commencement.

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

Definitions.

3. Section 5 of the Principal Act is amended—

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

“ Judge ” or “ Judge of the Supreme Court ” means the Judge appointed under sub-section (1.) of section seven of this Act or an additional Judge and, in the expressions “ the Supreme Court or the Judge ”, “ the Court or the Judge ” and “ the Court or Judge ”, means the Judge so appointed, or an additional Judge, sitting in Chambers;”;

(b) by omitting the words—

“ ‘ 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;”.

Appointment of Judge and additional Judges.

4.—(1.) Section 7 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) The Governor-General may appoint, by commission, a person who is or has been—

(a) a Judge of another court created by the Parliament or of a court of a State; or

* 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; No. 34, 1957; No. 43, 1958; No. 51, 1959; No. 110, 1960; No. 109, 1964; No. 92, 1965; and Nos. 8 and 93, 1966.

(b) a practising barrister, solicitor, barrister and solicitor, or legal practitioner of the High Court or of the Supreme Court of a State, the Australian Capital Territory or another Territory of the Commonwealth, of not less than five years' standing, to be a Judge of the Supreme Court.”.

(2.) The Judge of the Supreme Court appointed under sub-section (1.) of section 7 of the Principal Act, and holding office immediately before the commencement of this Act, shall, upon the commencement of this Act, be deemed to have been appointed under sub-section (1.) of section 7 of the Principal Act as amended by this Act.

5. Section 8 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “The jurisdiction” and inserting in their stead the words “Subject to the next succeeding section, the jurisdiction”;
- (b) by adding at the end of sub-section (2.) the words “that is exercisable by one Judge”; and
- (c) by adding at the end of sub-section (3.) the words “that is exercisable by one Judge”.

Exercise of jurisdiction generally.

6. After section 8 of the Principal Act the following section is inserted:—

“8AA.—(1.) The jurisdiction of the Supreme Court in the following matters shall be exercised by not less than three Judges sitting together in Court:—

Exercise of jurisdiction in relation to legal practitioners.

- (a) an application under any Ordinance relating to legal practitioners for admission of a person to practise as a barrister and solicitor, or as a barrister or as a solicitor, of the Court;
- (b) any matter relating to the issue of, or the cancellation of, a practising certificate under any such Ordinance; and
- (c) any matter arising under any such Ordinance in relation to the professional behaviour or conduct of a legal practitioner, including an appeal to the Court from a decision of a Disciplinary Committee established under any such Ordinance.

“(2.) The Judge appointed under sub-section (1.) of section seven of this Act may, from time to time, make arrangements as to which Judges are to exercise the jurisdiction of the Court that is exercisable in accordance with the last preceding sub-section.

“(3.) Where—

- (a) the Judge appointed under sub-section (1.) of section seven of this Act 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 more than three additional Judges of the Court,

the senior additional Judge may, from time to time, make arrangements as to which of the additional Judges are to exercise the jurisdiction of the Court that is exercisable in accordance with sub-section (1.) of this section.

“(4.) If three or more Judges sitting together in accordance with sub-section (1.) of this section are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, if there is a majority, but if the Judges are equally divided in opinion, the opinion of the Judge appointed under sub-section (1.) of section seven of this Act, or, if he is not one of the Judges so sitting, the opinion of the senior additional Judge present, shall prevail.”

Jurisdiction
in Chambers.

7. Section 12 of the Principal Act is amended by inserting in sub-section (1.), after the words “Supreme Court” (first occurring), the words “that is exercisable by one Judge”.

References to
Full Court
of High Court.

8. Section 13 of the Principal Act is amended by inserting after the word “Chambers,” the words “or Judges of the Court sitting together in accordance with section eight AA of this Act,”.

Rules of Court.

9.—(1.) Section 28 of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) The Judge may make Rules of Court, not inconsistent with this or any other Act or with any Ordinance—

(a) for regulating and prescribing—

(i) the practice and procedure, including the method of pleading, to be followed in the Supreme Court and in the offices of the Court; and

(ii) all matters and things incidental to or relating to any such practice and procedure or necessary or convenient to be prescribed for the conduct of any business of the Court; and

(b) for prescribing any matter or thing that is, by any law of the Territory that makes provision for the incorporation of, and otherwise in relation to, companies, required or permitted to be prescribed by regulation under that law.”;

and

(b) by omitting sub-sections (3.) and (4.) and inserting in their stead the following sub-sections:—

“(3.) All Rules of Court made under this section shall—

(a) be notified in the *Gazette*;

(b) take effect from the date of notification or from a later date fixed by or in accordance with the Rules; and

(c) be laid before each House of the Parliament within fifteen sitting days of that House after the making of the Rules.

“(4.) If either House of the Parliament, in pursuance of a motion of which notice has been given within fifteen sitting days after any Rules of Court have been laid before that House, passes a resolution disallowing any rule, the rule so disallowed thereupon ceases to have effect.

“(5.) Nothing in this section shall be construed as derogating from the power to make regulations conferred by any law of the Territory that makes provision for the incorporation of, and otherwise in relation to, companies, but where regulations made in pursuance of such a law are inconsistent with Rules of Court made under this Act, the Rules of Court shall prevail, and the regulations shall, to the extent of the inconsistency, be of no effect.”.

(2.) The Rules of Court in force under the Principal Act immediately before the commencement of this Act shall, after the commencement of this Act, be as valid and effectual as if made under the Principal Act as amended by this Act.

10. Section 35 of the Principal Act is amended by adding at the end of sub-section (1.) the words “and such other duties as are assigned to him by Rules of Court”.

Powers and
duties of
Registrar.

11. After section 35 of the Principal Act the following section is inserted:—

“35A.—(1.) The Supreme Court, in making an order for the winding-up of a company, may direct that all proceedings for and in relation to the winding-up shall be had and taken before the Registrar.

Proceedings
before Registrar
in relation to
winding-up
of companies.

“(2.) Where the Court gives a direction under the last preceding sub-section in relation to the winding-up of a company—

- (a) the Registrar has, in relation to the winding-up, all the powers of the Court;
- (b) the Registrar may refer to the Court any matter in relation to the winding-up that he thinks proper to be determined by the Court; and
- (c) an appeal lies to the Court from any order, decree or direction of the Registrar made or given in relation to the winding-up.

“(3.) In this section, ‘the Registrar’ does not include a Deputy Registrar.”.

12. Section 51 of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

Appeals from
Supreme Court
in civil cases.

“(1A.) The High Court shall also have jurisdiction to hear and determine appeals from any judgment of the Supreme Court in a matter specified in sub-section (1.) of section eight AA of this Act.”.