



SUPREME COURT

No. 92 of 1974

ANALYSIS

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| <ol style="list-style-type: none"> 1. Short title, citation, and commencement. 2. Part II. 3. Appointment of Master; salary. Tenure of office and terms of appointment of Master. Allowances payable to Master. Leave of absence of Master. Resignation of Master. Removal of Master from office. Master not to engage in private practice, &c. Rights of public servant appointed as Master. | <p>Assistance for the Master.</p> <p>Master may act as magistrate or commissioner of court of requests.</p> <p>Registrar and Deputy Registrar. Deputies acting in place of Registrar.</p> <p>Functions of Registrar in other offices.</p> <ol style="list-style-type: none"> 4. Taxing officers. 5. Transition provision. 6. Consequential amendments. |
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AN ACT to amend the Supreme Court Act 1959.

[19 December 1974]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Supreme Court Act 1974*.

Short title, citation and commencement.

(2) The *Supreme Court Act 1959*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on a day to be proclaimed.

Part II.

2 The Principal Act is amended by omitting, from the heading to Part II, the words "AND REGISTRAR".

3 Sections 4, 5, 5A, and 5B of the Principal Act are repealed and the following sections and Part are substituted therefor:—

Appointment of Master; salary.

"4—(1) The Governor may appoint a person to be the Master.

"(2) No person is qualified to be appointed under this section unless he is a barrister of at least 5 years' standing.

"(3) The rate of salary of the Master shall be 92 per cent of the maximum rate of salary for a permanent head as determined in accordance with the scales of salaries laid down under an award in force under Part V of the *Public Service Act 1973*.

"(4) For the purpose of subsection (3), 'permanent head' means the permanent head of a department constituted under the *Public Service Act 1973*.

Tenure of office and terms of appointment of Master.

"5—(1) Subject to this Act, a person appointed as Master holds office during good behaviour on such terms and conditions as the Governor determines.

"(2) A person is not eligible to be appointed, or to hold office, as Master otherwise than in an acting capacity after he has attained the age of sixty-five years.

Allowances payable to Master.

"5A—(1) In addition to the salary prescribed, the Master is entitled to be paid such travelling allowances and other allowances as the Governor determines, and, until the Governor makes a determination under this subsection, is entitled to be paid the same travelling allowances and other allowances as are prescribed in respect of permanent heads of departments in any award applicable to them that is in force for the time being under the *Public Service Act 1973*.

"(2) An allowance that is payable to the Master by virtue of subsection (1) is payable out of the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly).

Leave of absence of Master.

"5B—(1) The Master is entitled to the same leave of absence for recreation or on account of sickness as if he were an officer within the meaning of the *Public Service Act 1973*.

"(2) The Master is an employee for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

Resignation of Master.

"5C The Master may resign his office by writing signed by him and delivered to the Governor.

“ 5D The Governor may remove the Master from office if the Removal of Master from office.

- (a) except by reason of temporary illness, becomes incapable of performing the duties of his office;
- (b) is guilty of misbehaviour; or
- (c) becomes bankrupt, or applies to take or takes advantage of a law relating to bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of any part of his estate for their benefit.

“ 5E—(1) Subject to this section, the Master shall not engage Master not to engage in private practice, &c. in the practice of his profession or in any other employment except in the performance of the functions of his office.

“(2) Subsection (1) does not preclude the Master from—

- (a) holding an office that, by or under an enactment, is to be or may be held by the holder of the office of Master; or
- (b) holding an office or engaging in employment where he is expressly authorized by the Attorney-General, in writing, to do so.

“ 5F—(1) The Master is not, in respect of his office as such, Rights of public servant appointed as Master. subject to the provisions of the *Public Service Act 1973* but where a person who is appointed as Master was, immediately before his appointment, an officer of the Public Service of the State—

- (a) he retains all his existing and accruing rights; and
- (b) for the purpose of determining those rights, his service as Master shall be taken into account as if it were service as an officer of the Public Service of the State.

“(2) Where a person who is appointed as Master was, immediately before his appointment, a contributor within the meaning of the *Superannuation Act 1938* or of the *Retirement Benefits Act 1970* he continues, notwithstanding his appointment, to be a contributor within the meaning and for the purposes of whichever of those Acts is appropriate.

“(3) Where a person who is appointed as Master was, immediately before his appointment, contributing to a prescribed superannuation fund within the meaning of section 22 of the *Retirement Benefits Act 1970* he is, notwithstanding his appointment, an employee within the meaning of, and is required to contribute to the Fund established under, that Act.

“(4) Where a person who is appointed as Master is not affected by subsection (2) or subsection (3) he shall, from the time of his appointment, be deemed to be an employee within the meaning, and for the purpose, of the *Retirement Benefits Act 1970*.

Assistance for
the Master.

“5G On being requested by the Master to do so, the Registrar, with the approval of the Chairman of the Public Service Board, may provide or procure the services of such officers of the Public Service of the State or of other persons as may reasonably be necessary for the purpose of assisting the Master in the performance of his duties.

Master may
act as
magistrate or
commissioner
of court of
requests.

“5H In addition to his duties as Master the person appointed to that office may exercise all the functions, powers, and authority of a magistrate and of a commissioner of the court of requests.

“ PART IIA

“ REGISTRAR OF THE SUPREME COURT

Registrar and
Deputy
Registrar.

“5J—(1) The Governor may appoint a person to be the Registrar of the Supreme Court.

“(2) The Governor may appoint a person to be the Deputy Registrar of the Supreme Court.

“(3) Appointments under subsections (1) and (2) shall be subject to the *Public Service Act 1973*.

Deputies
acting in place
of Registrar.

“5K Subject to the Rules of Court, a deputy Registrar may exercise any of the functions conferred by any enactment or otherwise on the Registrar, and any act or thing done by or before a Deputy Registrar has the same force and effect as if it were done by or before the Registrar.

Functions of
Registrar in
other offices.

“5L—(1) Where the person who holds office as Registrar also holds an office to which this section applies, a Deputy Registrar appointed under this Act may act as, and exercise any of the functions conferred on, the holder of that office, and any act or thing done by or before a Deputy Registrar so acting has the same force and effect as if it were done by or before the person holding that office.

“(2) This section applies to the offices of—

- (a) Registrar of Building Societies;
- (b) Registrar of Business Names;
- (c) Registrar of Friendly Societies; and
- (d) Registrar under the *Trades Unions Act 1889*,

and to any other office declared by the Governor by order to be an office to which this section applies.”

4 Section 10 of the Principal Act is repealed and the following section is substituted therefor:—

“ 10—(1) The Registrar, the Deputy Registrar, and the District ^{Taxing officers.} Registrars shall be taxing officers of the Court.

“(2) The work of the taxing officers shall be divided between them as the Registrar directs.”.

5 The person holding office as Master at the commencement of ^{Transition} this Act shall be deemed to have been appointed under this Act. ^{provision.}

6 The Acts that are specified in the schedule are amended as ^{Consequential} respectively specified in that schedule. ^{amendments.}

THE SCHEDULE

(Section 6)

The Supreme Court Civil Procedure Act 1932

(23 Geo. V No. 58)

Sections 194, 194A, 194B, 194C, 194E and 194F are amended by omitting the word “Master” (wherever occurring) and substituting therefor in each case the word “Registrar”.

The Companies Act 1962

(No. 66 of 1962)

Section 7 (3) is amended by omitting the words “Master and”.

The Appeal Costs Fund Act 1968

(No. 57 of 1968)

(a) Section 2 is amended—

(i) by omitting the definition of “judicial officer” and substituting therefor the following definition:—

“ ‘judicial officer’ means a judge, the Master of the Supreme Court, a magistrate, a commissioner of a court of requests, the chairman of a court of general sessions, or two or more justices in petty sessions;”;

(ii) by omitting the definition of “Master”; and

(iii) by inserting, after the definition of “proper officer”, the following definition:—

“ ‘Registrar’ means the Registrar of the Supreme Court and includes the Deputy Registrar;”;

(b) by omitting, from sections—

3 (2) (b), (4), and (6);

6 (1), (2), and (3);

7 (1) and (2);

9 (2);

13 (1) (b) (ii), (4), (5), and (6);

16 (2) (a);

17 (2) (a); and

18,

the word "Master" (wherever occurring) and substituting therefor, in each case, the word "Registrar".