

Courts (Case Transfer) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purposes of the Act.

Clause 2 provides that the Act comes into operation when proclaimed.

Clause 3 contains definitions.

Clause 4 allows delegation by senior judicial officers.

Clause 5 states that a case may be transferred by an order.

PART 2—GENERAL TRANSFERS

Clause 6 sets out when a general transfer may take place.

Clause 7 empowers the Registry officer to identify suitable cases for transfer.

Clause 8 empowers the designated judicial officers to select cases for transfer from those identified.

Clause 9 states that the parties must be notified of intended transfer.

Clause 10 allows parties to object within specified time.

Clause 11 states that senior judicial officers must consider objections and determine whether to transfer case.

Clause 12 provides for the making of a transfer order and states that there is no right of appeal.

Clause 13 details how proceedings are to be conducted after transfer.

Clause 14 states that a proceeding can only be transferred once under this Part.

PART 3—INDIVIDUAL TRANSFERS

Clause 15 provides when an individual transfer can take place.

Clause 16 sets out the criteria for transfer that must be considered by a designated judicial officer.

Clause 17 allows for referral of a suitable case for transfer and sets out procedure for designated judicial officer in considering case.

Clause 18 states that the parties must be notified of an intended transfer.

Clause 19 allows the parties to object within specified time.

Clause 20 states that senior judicial officers must consider objections and determine whether to transfer case.

Clause 21 provides for the making of a transfer order and states that there is no right of appeal.

Clause 22 details how proceedings are to be conducted after transfer.

Clause 23 states that a proceeding can only be transferred once under this Part.

PART 4—CIRCUIT TRANSFERS

Clause 24 provides for the transfer of a case or cases from one circuit court to another.

Clause 25 states that a case under this Part can be transferred more than once.

PART 5—ADMINISTRATIVE TRANSFERS

Clause 26 provides for the transfer of a case where the plaintiff certifies that the proceeding is within the lower court's jurisdiction.

Clause 27 provides for the transfer of a case where the defendant certifies that the counterclaim exceeds the court's jurisdiction.

Clause 28 provides that certain other sections of the Act apply to transfers under this Part.

Clause 29 states that a case may be transferred again under Part 3 or 4.

PART 6—CASE TRANSFER RULES

Clause 30 provides for the making of rules under the Act.

Clause 31 provides that rules made under this Act prevail over inconsistent rules of court.

PART 7—CONSEQUENTIAL AMENDMENTS

Clause 32 amends the **Supreme Court Act 1986**.

Clause 33 amends the **County Court Act 1958**.

Clause 34 amends the **Magistrates' Court Act 1989**.

PART 8—OTHER AMENDMENTS

Clause 35 amends the **County Court Act 1958** to increase the jurisdictional limit of the County Court to \$200,000.

Clause 36 amends the **Magistrates' Court Act 1989** to increase the jurisdictional limit to \$40,000.

Clause 37 amends the **Constitution Act 1975** to provide that a Reserve Judge needs the consent of the Chief Justice to take up a Crown appointment or practise as a barrister or

solicitor. It states that their pension shall be suspended when they take up such an appointment.

Clause 38 amends the **County Court Act 1958** to provide that a Reserve Judge needs the consent of the Chief Judge to take up a Crown appointment or practise as a barrister or solicitor. It states that their pension shall be suspended when they take up such an appointment.

