

## Authorised Version No. 143

# County Court Act 1958

6230/1958

Authorised Version incorporating amendments as at  
17 November 2011

### TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
1 Short title and commencement	1
2 Repeals	1
3 Definitions	2
3AA Definitions relating to pensions	8
3AAB Meaning of family member for purposes of Koori Court Division	12
3A Abolition of distinction between court and chambers	15
3B Judge may exercise jurisdiction of court	15
3BA Associate judge may exercise jurisdiction of court	15
3C Saving provision	15
<b>PART I—COURT JUDGES OFFICERS COUNSEL AND PRACTITIONERS</b>	<b>16</b>
<b>Division 1—Establishment of the County Court and sittings</b>	<b>16</b>
4 Establishment of the County Court	16
4A Establishment of Koori Court Division	17
4B Jurisdiction of Koori Court Division	18
4C Dealing with proceedings for certain offences	19
4D Hearing certain appeals	19
4E Circumstances in which Koori Court Division may deal with proceedings for certain offences or hear certain appeals	19
4F Proceedings may be transferred to and from the Koori Court Division	20
4G Sentencing procedure in Koori Court Division	21
5 Where court to be held	22
5A <i>Repealed</i>	22
5B Construction of references	22
6 Seal of the court	23
<b>Division 2—Time and place for holding court</b>	<b>23</b>
7 Where court held and days of sitting	23

<i>Section</i>	<i>Page</i>
<b>Division 3—Judges</b>	<b>24</b>
8 Appointment and qualification of judges	24
9 <i>Repealed</i>	26
9A Protection of judges and associate judges	26
10 Salaries and allowances of the Chief Judge and other judges	27
11 Appointment of acting judges	31
12 <i>Repealed</i>	36
13 Judges not to engage in legal practice or sit in Parliament	36
13A <i>Repealed</i>	37
14 Provision for pensions to County Court judges and their partners	37
14AA Election of County Court judges to commute future pensions for payment of superannuation contributions surcharge	50
14AB Actuary's first calculation after election of judges to commute pensions	51
14AC Actuary's second calculation after election of the judges to commute pensions and payment of lump sums	52
14AD Election of former judges to commute pensions for payment of superannuation contributions surcharge	54
14AE Actuary's calculation after former judges' election to commute pensions	55
14AF Payment and commutation of pensions of former judges	55
14AG Election of judges' partners and eligible children to commute pensions for payment of superannuation contributions surcharge	56
14AH Actuary's calculation of reduction of pensions of judges' partners and eligible children	57
14AI Payment and commutation of pensions of former judges' partners and eligible children	58
14A Appointment of judicial members of Liquor Control Commission as judges	59
15 Power to exercise functions of judge or associate judge by another	59
16, 16A <i>Repealed</i>	60
17 Appointment of judges temporarily or during pleasure valid	60
<b>Division 3AA—Professional development and training</b>	<b>61</b>
17AAA Professional development and training	61
<b>Division 3A—Associate Judges</b>	<b>62</b>
17A Associate judges	62
17ABA Functions of associate judges	63
17AA Salaries and allowances of associate judges	64
17B Pension entitlements of associate judges, their partners and children	66

<i>Section</i>	<i>Page</i>
17C Election of associate judges to commute future pensions for payment of superannuation contributions surcharge	70
17D Actuary's first calculation after election of associate judges to commute pensions	71
17E Actuary's second calculation after election of associate judges to commute pensions and payment of lump sums	73
17F Election of former associate judges to commute pensions for payment of superannuation contributions surcharge	74
17G Actuary's calculation after former associate judges' election to commute pensions	75
17H Payment and commutation of pensions of former associate judges	76
17I Election of associate judges' partners and eligible children to commute pensions for payment of superannuation contributions surcharge	77
17J Actuary's calculation of reduction of pensions of associate judges' partners and eligible children	78
17K Payment and commutation of pensions of former associate judges' partners and eligible children	79
<b>Division 3B—Judicial registrars</b>	<b>80</b>
17L Assignment of duties	80
17M Guidelines relating to the appointment of judicial registrars	80
17N Recommendation for appointment of judicial registrars	81
17O Appointment by Governor in Council	81
17P Remuneration and terms and conditions of appointment	82
17Q Resignation from office	83
17R Suspension from office	83
17S Investigation of judicial registrar and report	83
17T Removal of judicial registrar from office	85
17U Performance of duties by judicial registrar	85
17V Review of decisions of judicial registrar	86
<b>Division 4—Registrars</b>	<b>86</b>
18 Appointment of registrar and deputy registrars	86
19 Protection of registrars	87
20 <i>Repealed</i>	87
21 Duties of registrar	87
21A Moneys held under Act may be invested	89
22 Power to registrar to administer oaths	90
<b>Division 4A—Aboriginal elders and respected persons</b>	<b>90</b>
22A Appointment of Aboriginal elders or respected persons	90
<b>Division 5—Bailiffs</b>	<b>91</b>
23 Appointment of bailiffs and assistant bailiffs of County Court	91
24 Bailiff's duty	92

<i>Section</i>	<i>Page</i>
<b>Division 6—Registrars, bailiffs and other officers</b>	<b>93</b>
25 Penalty on officers for corrupt practices	93
26 Registrar and bailiff to be distinct persons and not to act as legal practitioner	93
27 Registrar and bailiff to give security	94
<b>Division 7—Court fees</b>	<b>95</b>
28 Court fees payable by suitors	95
28A Exemption from court fees	96
<b>Division 8—Proceedings against officers</b>	<b>96</b>
29 Proceedings against registrars etc.	96
30 Proceedings against bailiffs etc.	97
31 <i>Repealed</i>	97
32 Protection to bailiffs etc.	97
<b>Division 9—Legal practitioners—costs</b>	<b>98</b>
33 Fees to legal practitioners to be fixed by the judges	98
34 Power to recover excessive fees	98
<b>PART II—JURISDICTION</b>	<b>100</b>
<b>Division 1—Sittings of the court</b>	<b>100</b>
35 Court of record	100
36 Proceedings arising outside Victoria	100
<b>Division 1A—Criminal jurisdiction</b>	<b>101</b>
36A Criminal jurisdiction of County Court	101
<b>Division 2—Civil jurisdiction</b>	<b>103</b>
37 Extent of jurisdiction	103
38 <i>Repealed</i>	105
39 Whether proceedings within jurisdictional limit	105
39A Agreements by next friend etc. on behalf of infants	106
<b>Division 2A—Administration of children's funds</b>	<b>109</b>
39B Court orders relating to administration of children's funds	109
<b>Division 2B—Transfer and payment of money to the Supreme Court for person under disability</b>	<b>111</b>
39C Money held in court for person under disability	111
<b>Division 3—Officers of the court</b>	<b>112</b>
40 Officers of the court	112

<i>Section</i>	<i>Page</i>
<b>Divisions 4, 5—<i>Repealed</i></b>	<b>113</b>
41–45 <i>Repealed</i>	113
<b>Division 6—Arbitration, mediation, and reference for inquiry</b>	<b>113</b>
46   Arbitration by agreement	113
47   Arbitration	114
47A  Power to refer civil proceedings to mediation or arbitration	115
47B  Mediation	115
48   Power to refer matters for inquiry and report	115
48A  Assessor	115
48B  Opinion of legal practitioner	116
48C  Protection of special referees, mediators and arbitrators	116
48D  Interaction with <b>Civil Procedure Act 2010</b>	117
<b>Division 7—Power to grant relief</b>	<b>117</b>
49   Power of court	117
49A  Attachment of earnings	117
49B  Execution of instruments by order of court	118
50   Rules of law to apply to County Court	118
51   Counter-claims in County Court and transfers therefrom	119
52   Facts necessary to give jurisdiction need not appear upon any civil proceeding	119
53   Mode of enforcing orders	119
<b>Division 7A—Appellate jurisdiction</b>	<b>120</b>
53A  Appellate jurisdiction of County Court	120
<b>Division 7B—<i>Repealed</i></b>	<b>120</b>
53B <i>Repealed</i>	120
<b>Division 8—Contempt of court</b>	<b>121</b>
54   Contempt of court	121
54A <i>Repealed</i>	121
<b>Division 8A—<i>Repealed</i></b>	<b>121</b>
54B <i>Repealed</i>	121
<b>Division 9—Costs where no jurisdiction</b>	<b>121</b>
55   Court may award costs where action or matter is struck out for want of jurisdiction	121
<b>PARTS III, IV—<i>Repealed</i></b>	<b>122</b>
56–64 <i>Repealed</i>	122

<i>Section</i>	<i>Page</i>
<b>PART V—TRIAL OF CIVIL PROCEEDINGS</b>	<b>123</b>
65 Trial to be by judge	123
66 Judge may reserve his decision	123
67 Trial may be by judge and jurors if required	124
68 Judge may direct trial by jurors	124
69 <i>Repealed</i>	125
70 Verdict of jurors	125
71 <i>Repealed</i>	125
72 Jury may be had on re-hearing of County Court proceeding in Supreme Court	125
<b>PART VI—JUDGMENT, NEW TRIAL AND APPEAL</b>	<b>127</b>
73 Judgments to be final	127
74 Appeal to the Court of Appeal	128
75 Appeal from court constituted by associate judge to Trial Division of the Supreme Court	130
76 Court may reserve question for opinion of the Court of Appeal	131
77 Prerogative writ	131
<b>PART VII—RULES, FORMS, SCALES OF COSTS, REGULATIONS</b>	<b>132</b>
78 Power to make rules of practice	132
78A Costs	139
79 <i>Repealed</i>	140
79A Regulations	140
<b>PART VIII—MISCELLANEOUS</b>	<b>141</b>
80 Power to close proceedings to the public	141
80AA Circumstances in which order may be made under section 80	141
80A Publishing particulars of issued summonses an offence	142
81 <i>Repealed</i>	142
82 No privilege to exempt persons from provisions of Act	143
83 Certain actions in Supreme Court to be stayed	143
84 Securities for money, marketable securities etc. seized under warrant	143
85 <i>Repealed</i>	144
86 Transfer of judgment to Supreme Court	144
87 Council of Judges	146
88 Robing of Judges	146
89 Transitional provisions	146
90 Transitional provision—reserve judges	147
91 Transitional provisions— <b>Courts Legislation (Jurisdiction) Act 2006</b>	147

<i>Section</i>	<i>Page</i>
92 Transitional provisions— <b>Courts Legislation Amendment (Associate Judges) Act 2008</b>	147
93 Transitional provision— <b>County Court Amendment (Koori Court) Act 2008</b>	148
94 Transitional provision— <b>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</b>	148
<hr/>	
<b>SCHEDULES</b>	<b>150</b>
SCHEDULE 1—Repeals	150
SCHEDULES 2, 3— <i>Repealed</i>	150
<hr/> <hr/>	
<b>ENDNOTES</b>	<b>151</b>
1. General Information	151
2. Table of Amendments	152
3. Explanatory Details	165

---

**Authorised Version No. 143**

**County Court Act 1958**

**No. 6230 of 1958**

Authorised Version incorporating amendments as at  
17 November 2011

An Act to consolidate the Law relating to the County Court.

**BE IT ENACTED by the Queen's Most Excellent Majesty by  
and with the advice and consent of the Legislative Council  
and the Legislative Assembly of Victoria in this present  
Parliament assembled and by the authority of the same as  
follows (that is to say):**

**1 Short title and commencement**

This Act may be cited as the **County Court Act 1958**, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

S. 1  
amended by  
Nos 6951 s. 2,  
7705  
s. 9(a)(i)(ii),  
7840 s. 19(a),  
8883  
s. 4(2)(a)(b),  
9019  
s. 2(1)(Sch.  
item 30),  
10013 s. 2,  
16/1986  
s. 16(f).

**2 Repeals**

- (1) The Acts mentioned in the First Schedule to the extent thereby expressed to be repealed are hereby repealed accordingly.
- (2) Except as in this Act expressly or by necessary implication provided—
  - (a) all persons things and circumstances appointed or created by or under either of the repealed Acts or existing or continuing under either of such Acts immediately before the



s. 3

commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed;

- (b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status operation or effect of any proclamation regulation rule order validation application determination decision direction certificate appointment commission notice fee liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under either of such Acts before the commencement of this Act; nor shall such repeal prejudice or affect the operation or effect of subsection (3) to (6) of section two of the **County Court (Amendment) Act 1952**, or of subsections (2) and (4) of section four or subsection (4) of section eight of the **County Court Act 1957**.

No. 6117 s. 3.  
S. 3  
amended by  
No. 19/1989  
s. 5(a)(b)(j).

### 3 Definitions

- (1) In this Act, unless the context or subject-matter otherwise requires—

S. 3(1) def. of  
*Aboriginal  
elder or  
respected  
person*  
inserted by  
No. 51/2008  
s. 4.

*Aboriginal elder or respected person* means a person who holds office as an Aboriginal elder or respected person under section 22A;

*Aborigine* means a person who—

- (a) is descended from an Aborigine or Torres Strait Islander; and
- (b) identifies as an Aborigine or Torres Strait Islander; and
- (c) is accepted as an Aborigine or Torres Strait Islander by an Aboriginal or Torres Strait Island community;

S. 3(1) def. of *Aborigine* inserted by No. 51/2008 s. 4.

\* \* \* \* \*

S. 3(1) def. of *action* amended by Nos 7705 s. 9(b)(i), 9007 s. 2(a)(i), substituted by No. 16/1986 s. 11(1)(a), repealed by No. 19/1989 s. 5(c).

*actuary* means a fellow or accredited member of the Institute of Actuaries of Australia approved by the Minister;

S. 3(1) def. of *actuary* inserted by No. 19/2001 s. 11.

*appropriate dispute resolution* has the same meaning as it has in the **Civil Procedure Act 2010**;

S. 3(1) def. of *appropriate dispute resolution* inserted by No. 47/2010 s. 83(b).

*associate judge* means a person appointed under section 17A;

S. 3(1) def. of *associate judge* inserted by No. 24/2008 s. 43(a).

*Australian lawyer* has the same meaning as in the **Legal Profession Act 2004**;

S. 3(1) def. of *Australian lawyer* inserted by No. 18/2005 s. 18(Sch. 1 item 25.1).

County Court Act 1958  
6230/1958

s. 3

S. 3(1) def. of  
*Chief Judge*  
inserted by  
No. 8625  
s. 2(b),  
amended by  
No. 16/1986  
s. 11(1)(b).

*Chief Judge* means Chief Judge of the County  
Court and includes an Acting Chief Judge;

S. 3(1) def. of  
*Chairman*  
repealed by  
No. 8625  
s. 2(a).

\* \* \* \* \*

S. 3(1) def. of  
*counsel*  
repealed by  
No. 35/1996  
s. 453(Sch. 1  
item 15.1).

\* \* \* \* \*

*court* means the County Court;

S. 3(1) def. of  
*family  
member*  
inserted by  
No. 51/2008  
s. 4.

*family member* has the meaning given by  
section 3AAB;

S. 3(1) def of  
*judge*  
amended by  
Nos 8625  
s. 2(c),  
24/2008  
s. 43(b).

*judge* means a judge or acting judge of the court,  
and includes the Chief Judge but does not  
include an associate judge;

S. 3(1) def. of  
*judgment*  
repealed by  
No. 19/1989  
s. 5(c).

\* \* \* \* \*

S. 3(1) def. of  
*judicial  
registrar*  
inserted by  
No. 34/2010  
s. 28(1).

*judicial registrar* means a judicial registrar of the  
County Court appointed under Division 3B  
of Part I;

*judicial resolution conference* has the same meaning as it has in the **Civil Procedure Act 2010**;

S. 3(1) def. of *judicial resolution conference* inserted by No. 50/2009 s. 7, amended by No. 34/2010 s. 28(2), substituted by No. 47/2010 s. 83(a).

\* \* \* \* \*

S. 3(1) def. of *jurisdictional limit* inserted by No. 16/1986 s. 11(2), substituted by Nos 16/1986 s. 12, 64/1990 s. 13, amended by No. 43/1991 s. 39, repealed by No. 50/2006 s. 3(1).

*Koori Court Division* means the division of the court established under section 4A;

S. 3(1) def. of *Koori Court Division* inserted by No. 51/2008 s. 4.

*Koori Court officer* means a person who—

S. 3(1) def. of *Koori Court officer* inserted by No. 51/2008 s. 4.

- (a) is employed under Part 3 of the **Public Administration Act 2004**; and
- (b) exercises powers, or performs functions, in relation to the Koori Court Division of the court;

*legal practitioner* means an Australian legal practitioner within the meaning of the **Legal Profession Act 2004**;

S. 3(1) def. of *legal practitioner* inserted by No. 18/2005 s. 18(Sch. 1 item 25.1)).

County Court Act 1958  
6230/1958

s. 3

S. 3(1) def. of  
*matter*  
amended by  
Nos 7705  
s. 9(b)(ii), 9007  
s. 2(a)(ii),  
repealed by  
No. 19/1989  
s. 5(c).

\* \* \* \* \*

S. 3(1) def. of  
*party*  
amended by  
No. 19/1989  
s. 5(d).

*party* includes a party to a civil proceeding and every person served with notice thereof or attending on the hearing of the same although not named as a party thereto and includes a body politic or corporate;

S. 3(1) def. of  
*pleading*  
inserted by  
No. 10117  
s. 5(a),  
repealed by  
No. 19/1989  
s. 5(e).

\* \* \* \* \*

S. 3(1) def. of  
*practitioner*  
repealed by  
No. 35/1996  
s. 453(Sch. 1  
item 15.1).

\* \* \* \* \*

S. 3(1) def. of  
*proceeding*  
inserted by  
No. 19/1989  
s. 5(f).

*proceeding* means any matter in the court;

S. 3(1) def. of  
*registrar*  
amended by  
No. 19/1989  
s. 5(g).

*registrar* means the registrar or a deputy registrar of the County Court;

S. 3(1) def. of  
*Rules*  
substituted by  
No. 19/1989  
s. 5(h).

*Rules* means the Rules of Court made by the judges of the court whether under the powers conferred by this Act or otherwise;

***Secretary to the Department of Health*** means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Health;

S. 3(1) def. of *Secretary to the Department of Health* inserted by No. 29/2010 s. 54(1).

***subordinate instrument*** has the same meaning as in section 3 of the **Interpretation of Legislation Act 1984**.

S. 3(1) def. of *subordinate instrument* inserted by No. 19/1989 s. 5(j).

***superannuation contributions surcharge*** means the superannuation contributions surcharge imposed by the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997 of the Commonwealth;

S. 3(1) def. of *super-annuation contributions surcharge* inserted by No. 19/2001 s. 11.

***superannuation contributions surcharge notice*** means a notice issued by the Commissioner of Taxation under section 15(7) of the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997 of the Commonwealth;

S. 3(1) def. of *super-annuation contributions surcharge notice* inserted by No. 19/2001 s. 11.

***total pension entitlement*** means, on a particular day, the current value of all future pension payments on that day.

S. 3(1) def. of *total pension entitlement* inserted by No. 19/2001 s. 11.

- (2) In this or any other Act or enactment or in any subordinate instrument or other instrument a reference to a rule or decree of the Court is to be taken as a reference to an order of the court.

S. 3(2) inserted by No. 19/1989 s. 5(j).

s. 3AA

S. 3(3)  
inserted by  
No. 19/1989  
s. 5(j).

(3) If by this or any other Act or enactment or by any subordinate instrument or other instrument a procedure is prescribed for or in relation to any proceeding in the court or for or in relation to any step or process in such a proceeding and the County Court Rules of Procedure in Civil Proceedings 1989 prescribe a procedure that is applicable to such a proceeding or step or process, the procedure prescribed by those Rules applies despite the provisions of that Act, enactment, subordinate instrument or other instrument.

S. 3(4)  
inserted by  
No. 19/1989  
s. 5(j).

(4) A proceeding to which the County Court Rules of Procedure in Civil Proceedings 1989 apply must, despite anything in any Act or enactment, be commenced and conducted in accordance with those Rules and not otherwise.

S. 3(5)  
inserted by  
No. 19/1989  
s. 5(j).

(5) A judgment in any civil proceeding must be enforced in accordance with the County Court Rules of Procedure in Civil Proceedings 1989 and not otherwise.

S. 3AA  
inserted by  
No. 23/2008  
s. 9.

### 3AA Definitions relating to pensions

(1) For the purposes of section 14—

*approved deposit fund* has the meaning given by section 10(1) of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

*domestic partner* of a person means—

S. 3AA(1)  
def. of  
*domestic  
partner*  
substituted by  
No. 23/2008  
s. 23(1),  
amended by  
No. 4/2009  
s. 37(Sch. 1  
item 8.1).

(a) a person who is, or was at the time of the person's death, in a registered domestic relationship with the person;  
or

(b) a person to whom the person is not married but with whom, in the opinion of the Minister, the person is, or was at the time of the person's death, living as

---

a couple on a genuine domestic basis  
(irrespective of gender);

***eligible rollover fund*** means a fund within the  
meaning of section 242 of the  
Superannuation Industry (Supervision) Act  
1993 of the Commonwealth;

***eligible superannuation plan*** means—

- (a) a regulated superannuation fund; or
- (b) an approved deposit fund; or
- (c) an exempt public sector superannuation  
scheme; or
- (d) an RSA;

***exempt public sector superannuation scheme***  
means a public sector superannuation  
scheme within the meaning of section 10(1)  
of the Superannuation Industry (Supervision)  
Act 1993 of the Commonwealth;

***flag lifting agreement*** has the meaning given by  
section 90MN of the Family Law Act 1975  
of the Commonwealth;

***flagging order*** means an order mentioned in  
section 90MU(1) of the Family Law Act  
1975 of the Commonwealth;

***interest*** has the meaning given by section 90MD  
of the Family Law Act 1975 of the  
Commonwealth;

***member*** means a judge;

***member spouse***, in relation to a superannuation  
interest, means the spouse who has the  
superannuation interest;



s. 3AA

---

S. 3AA(1)  
def. of  
*partner*  
substituted by  
No. 40/2010  
s. 107.

*non-member spouse*, in relation to a superannuation interest, means the spouse who is not the member spouse in relation to that interest;

*partner* of a person means the person's spouse or domestic partner;

*payment flag* has the meaning given by section 90MD of the Family Law Act 1975 of the Commonwealth;

*regulated superannuation fund* means a superannuation fund which complies with section 19 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

*relevant condition of release* means a condition of release mentioned in item 101, 102, 103 or 106 of Schedule 1 to the Superannuation Industry (Supervision) Regulations 1994 of the Commonwealth;

*reversionary interest* has the meaning given by section 90MF of the Family Law Act 1975 of the Commonwealth;

*RSA* means a retirement savings account within the meaning of the Retirement Savings Accounts Act 1997 of the Commonwealth;

*specified period* means the period which is specified to be the specified period in the specified standards;

*splitting order* means an order mentioned in section 90MT of the Family Law Act 1975 of the Commonwealth;

*spouse* of a person (except in sections 14(7) to 14(21)) means a person to whom the person is, or was at the time of the person's death, married;

S. 3AA(1)  
def. of  
*spouse*  
amended by  
No. 38/2009  
s. 20(1)(a).

*superannuation agreement* has the meaning given by section 90MD of the Family Law Act 1975 of the Commonwealth;

S. 3AA(1)  
def. of  
*super-  
annuation  
agreement*  
amended by  
No. 38/2009  
s. 20(1)(b).

*superannuation fund* has the same meaning as in the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

*superannuation interest* means an interest that a person has as a member of an eligible superannuation plan, but does not include a reversionary interest;

*unsplittable interest* has the meaning given by section 90MD of the Family Law Act 1975 of the Commonwealth;

*value at a particular time of the non-member spouse's entitlement in respect of the superannuation interest* means the value as determined in accordance with regulation 14G(8) of the Family Law (Superannuation) Regulations 2001 of the Commonwealth;

*value of the member spouse's interest in the Fund* means the value as determined in accordance with Part 5 of the Family Law (Superannuation) Regulations 2001 of the Commonwealth.

(1A) For the purposes of sections 14(7) to 14(21), *spouse* has the meaning given by section 90MD of the Commonwealth Family Law Act 1975.

S. 3AA(1A)  
inserted by  
No. 38/2009  
s. 20(2).

s. 3AAB

S. 3AA(2)  
substituted by  
No. 23/2008  
s. 23(2).

(2) For the purposes of the definition of *domestic partner* in subsection (1)—

S. 3AA(2)(a)  
amended by  
No. 4/2009  
s. 37(Sch. 1  
item 8.2(a)).

(a) *registered domestic relationship* has the same meaning as in the **Relationships Act 2008**; and

S. 3AA(2)(b)  
amended by  
No. 4/2009  
s. 37(Sch. 1  
item 8.2(b)).

(b) in determining whether persons who are not or were not in a registered domestic relationship are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

(3) For the purposes of section 14, a reference to the transfer of an amount is to be construed as including a reference to the rollover of an amount.

S. 3AAB  
inserted by  
No. 51/2008  
s. 5.

**3AAB Meaning of family member for purposes of Koori Court Division**

(1) In sections 4A and 4G, *family member* of a person means—

- (a) the spouse or domestic partner of the person; or
- (b) a person who has, or has had, an intimate personal relationship with the person; or
- (c) a person who is, or has been, a relative of the person; or
- (d) a child who normally or regularly resides with the person; or
- (e) a child of whom the person is a guardian; or

- 
- (f) another person who is, or has been, ordinarily a member of the household of the person.
- (2) For the purposes of the definition of *family member* in subsection (1)—
- (a) *domestic partner* of a person means—
- (i) a person who is in a registered relationship with the person; or
  - (ii) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—
    - (A) for fee or reward; or
    - (B) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);
- (b) *parent* of a child includes a guardian of the child or a person with whom the child normally or regularly resides;
- (c) *relative* of a person means—
- (i) a father, mother, grandfather, grandmother, step-father, step-mother, father-in-law or mother-in-law of the person; or

S. 3AAB(2)(a)  
substituted by  
No. 51/2008  
s. 10(1).

s. 3AAB

- (ii) a son, daughter, grandson, granddaughter, step-son, step-daughter, son-in-law or daughter-in-law of the person; or
- (iii) a brother, sister, half-brother, half-sister, brother-in-law or sister-in-law of the person; or
- (iv) an uncle, aunt, uncle-in-law or aunt-in-law of the person; or
- (v) a nephew or niece of the person; or
- (vi) a cousin of the person—

and includes, in the case of domestic partners, a person who would be such a relative if the domestic partners were married to each other;

(d) *spouse* of a person means a person to whom the person is, or was, married.

(3) For the purposes of the definition of *domestic partner* in subsection (2)—

- (a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and
- (b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and
- (c) a person is not a domestic partner of another person only because they are co-tenants.

S. 3AAB(3)  
substituted by  
No. 51/2008  
s. 10(2).

---

**3A Abolition of distinction between court and chambers**

The distinction between court and chambers is abolished.

S. 3A  
inserted by  
No. 19/1989  
s. 6.

**3B Judge may exercise jurisdiction of court**

Any judge of the court may exercise at any time and place all the jurisdiction vested in the court.

S. 3B  
inserted by  
No. 19/1989  
s. 6.

**3BA Associate judge may exercise jurisdiction of court**

Subject to this Act, any other Act and the Rules an associate judge may exercise at any time and place all the jurisdiction vested in the court.

S. 3BA  
inserted by  
No. 24/2008  
s. 44.

**3C Saving provision**

The amendments made to this or any other Act by the **County Court (Amendment) Act 1989** do not affect any ministerial power exercisable by a judge of the court under this or that other Act.

---

S. 3C  
inserted by  
No. 19/1989  
s. 6.

**PART I—COURT JUDGES OFFICERS COUNSEL AND  
PRACTITIONERS**

**Division 1—Establishment of the County Court and sittings**

Pt 1 Div. 1  
(Heading)  
amended by  
No. 19/1989  
s. 7(a).

No. 6117 s. 4.

**4 Establishment of the County Court**

S. 4(1)  
amended by  
No. 7705 s. 2,  
substituted by  
No. 16/1986  
s. 11(3),  
amended by  
No. 19/1989  
s. 7(b).

- (1) A court shall be held in and for the State of Victoria styled "The County Court" for the trial of offences and the trial and determination of all appeals, applications, claims, disputes and other proceedings both criminal and civil both at law and in equity as are by this or any other Act enacted to fall into and be within the jurisdiction of the court.

S. 4(1A)  
inserted by  
No. 16/1986  
s. 11(3),  
amended by  
Nos 19/1989  
s. 7(c),  
24/2008  
s. 45(1),  
34/2010  
s. 29(1).

- (1A) The court consists of such number of judges as are from time to time appointed as provided by this Act, the associate judges of the court, the judicial registrars of the court and the registrar of the court.

S. 4(1B)  
inserted by  
No. 16/1986  
s. 11(3),  
amended by  
No. 24/2008  
s. 45(2).

- (1B) The court shall be held by and before a judge or, in the case of any matter with respect to which the jurisdiction of the court has been conferred upon an associate judge or a registrar by any Act or by the Rules of Court, by and before a judge, an associate judge or a registrar.

S. 4(1C)  
inserted by  
No. 16/1986  
s. 11(3),  
repealed by  
No. 19/1989  
s. 7(d), new  
s. 4(1C)  
inserted by  
No. 34/2010  
s. 29(2).

- (1C) Without limiting subsection (1B), the court may be constituted by a judicial registrar in the case of a proceeding for which provision is made by Rules for—  
(a) the court to be so constituted; and

(b) the delegation to judicial registrars of powers of the court to hear and determine such a matter or proceeding.

(2) Subject to the Rules, the court may sit and act at any time and place.

S. 4(2) amended by No. 7522 s. 3(1)(a), substituted by No. 19/1989 s. 7(e).

\* \* \* \* \*

S. 4(3) inserted by No. 7522 s. 3(1)(b), repealed by No. 19/1989 s. 7(e).

#### 4A Establishment of Koori Court Division

S. 4A inserted by No. 51/2008 s. 6.

(1) The court has a Koori Court Division.

(2) The Koori Court Division has such of the powers of the court as are necessary to enable it to exercise its jurisdiction.

(3) Despite anything to the contrary in this Act, the Koori Court Division may only sit and act at a place of the court specified by the Chief Judge by notice published in the Government Gazette.

(4) The operation of sections 3B and 3BA is subject to this section.

S. 4A(4) amended by No. 51/2008 s. 10(3).

(5) The Koori Court Division must exercise its jurisdiction with as little formality and technicality, and with as much expedition, as the requirements of this Act and the **Sentencing Act 1991** and the proper consideration of the matters before the court permit.



**s. 4B**

(6) The Koori Court Division must take steps to ensure that, so far as practicable, any proceeding before it is conducted in a way which it considers will make it comprehensible to—

S. 4A(6)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.1).

(a) the accused; and

S. 4A(6)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.1).

(b) a family member of the accused; and

(c) any member of the Aboriginal community who is present in court.

(7) Subject to this Act, the regulations and the rules, the Koori Court Division may regulate its own procedure.

S. 4B  
inserted by  
No. 51/2008  
s. 6.

**4B Jurisdiction of Koori Court Division**

The Koori Court Division has—

S. 4B(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.2).

(a) jurisdiction to deal with a proceeding for an offence given to it by section 4C; and

(b) jurisdiction to deal with a breach of a sentence imposed by it (including any offence constituted by such a breach) or variation of such a sentence; and

(c) jurisdiction to hear (in accordance with the rules) an appeal given to it by section 4D; and

(d) any other jurisdiction given to it by or under this or any other Act or the rules.

**4C Dealing with proceedings for certain offences**

The Koori Court Division has jurisdiction to deal with a proceeding for an offence (other than an offence constituted by a breach of a sentence imposed by it) in the circumstances set out in section 4E.

**S. 4C**  
inserted by  
No. 51/2008  
s. 6,  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.3).

**4D Hearing certain appeals**

**S. 4D**  
inserted by  
No. 51/2008  
s. 6.

(1) The Koori Court Division has jurisdiction to hear an appeal under section 254 or 257 of the **Criminal Procedure Act 2009** in the circumstances set out in section 4E if the appeal is against the sentence imposed by—

**S. 4D(1)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.4).

- (a) the Koori Court Division of the Magistrates' Court; or
- (b) the Magistrates' Court other than the Koori Court Division of that court.

(2) An appeal to the Koori Court Division under section 254 or 257 of the **Criminal Procedure Act 2009** must be conducted as a re-hearing and is limited to an appeal against the sentence imposed.

**S. 4D(2)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.5).

(3) Sections 256(1) and 259(1) of the **Criminal Procedure Act 2009** do not apply to an appeal to the Koori Court Division.

**S. 4D(3)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.6).

**4E Circumstances in which Koori Court Division may deal with proceedings for certain offences or hear certain appeals**

**S. 4E**  
inserted by  
No. 51/2008  
s. 6.

For the purposes of sections 4C and 4D, the circumstances are—

- (a) the accused is Aboriginal; and

**S. 4E(a)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.7).

s. 4F

- (b) the offence is within the jurisdiction of the County Court, other than—
- (i) a sexual offence as defined in section 6B(1) of the **Sentencing Act 1991**; or
  - (ii) a contravention of a family violence intervention order or a family violence safety notice under the **Family Violence Protection Act 2008** or an offence arising out of the same conduct as that from which the contravention arose; and
- (c) the accused pleads guilty to the offence; and
- (d) the accused consents to the proceeding being dealt with by the Koori Court Division; and
- (e) the Koori Court Division considers that it is appropriate in all the circumstances that the proceeding be dealt with by it.

S. 4E(b)(ii) substituted by No. 51/2008 s. 10(4).

S. 4E(c) amended by No. 68/2009 s. 97(Sch. item 35.7).

S. 4E(d) amended by No. 68/2009 s. 97(Sch. item 35.7).

S. 4F inserted by No. 51/2008 s. 6.

**4F Proceedings may be transferred to and from the Koori Court Division**

Subject to, and in accordance with the rules—

- (a) a proceeding may be transferred to the Koori Court Division, whether sitting at the same or a different venue; and
- (b) the Koori Court Division may transfer a proceeding (including a proceeding transferred to it under paragraph (a)) to the court, sitting other than as the Koori Court Division, at the same or a different venue.

**4G Sentencing procedure in Koori Court Division**

- (1) This section applies to the Koori Court Division when it is considering the sentence to impose on an offender.
- (2) The Koori Court Division may consider any oral statement made to it by an Aboriginal elder or respected person.
- (3) The Koori Court Division may inform itself in any way it thinks fit, including by considering a report prepared by, or a statement or submission prepared or made to it by, or evidence given to it by—
  - (a) a Koori Court officer; or
  - (b) a community corrections officer appointed under Part 4 of the **Corrections Act 1986**; or
  - (c) a health service provider; or
  - (d) a victim of the offence; or
  - (e) a family member of the offender; or
  - (f) anyone else whom the Koori Court Division considers appropriate.
- (4) Nothing in this section affects the requirement to observe the rules of natural justice.
- (5) This section does not limit—
  - (a) any other power conferred on the court by or under this or any other Act or the rules; or
  - (b) any other specific provision made by or under this or any other Act or the rules for the making of any report, statement or

**S. 4G**  
inserted by  
**No. 51/2008**  
s. 6.

**S. 4G(1)**  
amended by  
**No. 68/2009**  
s. 97(Sch.  
item 35.8).

**S. 4G(3)(e)**  
amended by  
**No. 68/2009**  
s. 97(Sch.  
item 35.9).

s. 5

submission, or the giving of any evidence, to the court for the purpose of assisting it in determining sentence.

S. 4G(6)  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 12.1).

- (6) To avoid doubt, Part 3.10 of the **Evidence Act 2008** does not apply to the Koori Court Division in considering the sentence to impose on an offender under this section, unless the Koori Court Division directs, in accordance with section 4(2) of the **Evidence Act 2008**, that that Act applies.

No. 6117 s. 5.  
S. 5  
amended by  
Nos 7522  
s. 3(2), 7705  
s. 9(c),  
substituted by  
No. 19/1989  
s. 7(f).

## 5 Where court to be held

- (1) The court is to be held at such places as the Governor in Council by Order published in the Government Gazette directs.
- (2) The Governor in Council may by Order published in the Government Gazette direct that the court shall cease to be held at any place and may subsequently direct that it shall be again held at that place.

S. 5A  
inserted by  
No. 7705 s. 3,  
repealed by  
No. 19/1989  
s. 7(g).

\* \* \* \* \*

S. 5B  
inserted by  
No. 7705 s. 3.

## 5B Construction of references

- (1) Any reference in any Act or in any proclamation regulation rule or by-law to a "court of general sessions" or to a "court of general sessions of the peace" shall after the commencement of the **County Court (Jurisdiction) Act 1968** be read and construed as a reference to the County Court and any reference to a "chairman of general sessions" shall be read and construed as a reference to a judge of the County Court.
- (2) Any reference in any summons, application, notice, recognizance, judgment, order, determination, decision, direction, or other

instrument to a "court of general sessions" or "court of general sessions of the peace" shall after the commencement of the **County Court (Jurisdiction) Act 1968** be read and construed as a reference to the County Court and any reference to a "chairman of general sessions" shall be read and construed as a reference to a judge of the County Court.

## 6 Seal of the court

No. 6117 s. 6.

At every place at which the court is held under this Act there shall be a seal of the court, and all summonses and other process issuing out of the court shall be sealed or stamped with the seal of the court. The seal of any county court in use at any place before the commencement of the **County Court Act 1957** may be continued in use as the seal of the court at that place under this Act.

## Division 2—Time and place for holding court

### 7 Where court held and days of sitting

No. 6117 s. 7.

S. 7  
(Heading)  
inserted by  
No. 24/2008  
s. 46(1).

- (1) At each place at which the Governor in Council directs that the court be held a judge or, subject to the Rules, an associate judge shall attend and hold the court on such days and at such time as the Chief Judge from time to time appoints.
- (2) Notice of the days on which the court will commence sitting at each such place shall be published in the Government Gazette.
- (3) The Chief Judge may from time to time alter the days and times for the holding of the court at any place, and when any day so appointed is altered, notice of the intended alteration and of the time

S. 7(1)  
amended by  
Nos 8625 s. 3,  
24/2008  
s. 46(2).

S. 7(2)  
substituted by  
No. 7705  
s. 4(a).

S. 7(3)  
amended by  
Nos 7705  
s. 4(b), 8625  
s. 3.

when it will take effect shall be published in the Government Gazette.

S. 7(4)  
amended by  
Nos 20/2004  
s. 13, 24/2008  
s. 46(3),  
68/2009  
s. 97(Sch.  
item 35.10).

- (4) If a judge or an associate judge, as the case requires does not arrive at the court house before one o'clock in the afternoon of any day upon which the holding of the court has been fixed the registrar may open the court and adjourn the same to the following day or to such other day as he is directed by a judge or an associate judge, as the case requires either by order under his hand or by telegram and extend the bail of a person attending on that day in relation to a criminal proceeding in respect of which the person has been granted bail to the day to which the court is adjourned.

### Division 3—Judges

## 8 Appointment and qualification of judges

No. 6117 s. 8.

S. 8(1)  
amended by  
Nos 8625  
s. 4(a)(i)–(iii),  
64/1996  
s. 13(1),  
31/2004  
s. 10(1).

- (1) The Governor in Council shall appoint a person as Chief Judge and as many other persons as are needed to be judges of the county court under this Act, and when the Chief Judge or any other judge under this Act dies resigns retires or is removed another Chief Judge or judge (whichever case applies) may be appointed in his stead<sup>1</sup>.

S. 8(1A)  
inserted by  
No. 31/2004  
s. 10(2).

- (1A) A person is not eligible for appointment as Chief Judge or a judge unless the person—
- (a) is or has been a judge or magistrate of—
    - (i) the High Court of Australia or of a court created by the Parliament of the Commonwealth; or
    - (ii) a court of Victoria or of another State or of the Northern Territory or the Australian Capital Territory; or

- (b) is an Australian lawyer of at least 5 years' standing.
- (2) When the Chief Judge is absent on leave or for any reason is temporarily unable to perform the duties of the office—
- (a) the Governor in Council may appoint a judge of the court to be the Acting Chief Judge for such period or periods as the Governor in Council may determine; and
- (b) a judge of the court appointed as the Acting Chief Judge under this subsection or acting as Chief Judge under subsection (2A) has, during the period of appointment as Acting Chief Judge or the period of acting as Chief Judge, the same powers and jurisdiction as the Chief Judge has.
- (2A) If there is a vacancy in the office of the Chief Judge, the senior of the judges willing to act as Chief Judge shall act as Chief Judge.
- (2B) If the commissions of 2 or more judges bear the same date, the judges have seniority according to the seniority assigned by the commissions, or if there is no such assignment, according to the order of their being sworn.
- (3) No person who has attained the age of 70 years shall be appointed to be a judge under this Act.
- (4) Any reference to a judge of county courts in any other Act or in any proclamation, order, rule, regulation, by-law or other instrument or document shall, where the context allows, be read
- S. 8(1A)(b) substituted by No. 18/2005 s. 18(Sch. 1 item 25.2).
- S. 8(2) amended by No. 6429 s. 3 (as amended by No. 6489 s. 4), repealed by No. 6891 s. 2, new s. 8(2) inserted by No. 16/1986 s. 10.
- S. 8(2)(b) substituted by No. 64/1996 s. 13(2).
- S. 8(2A) inserted by No. 64/1996 s. 13(3).
- S. 8(2B) inserted by No. 64/1996 s. 13(3).
- S. 8(3) amended by No. 16/1986 s. 8(a).



s. 9A

and construed as a reference to a judge of the  
County Court.

S. 8(5)  
repealed by  
No. 8625  
s. 4(b).

\* \* \* \* \*

S. 8(6)  
amended by  
No. 8625  
s. 4(c)(i)(ii).

(6) Any reference to the senior judge of county courts  
or of any county court or the chairman of judges  
of the County Court or any reference of like  
import to those references (however expressed) in  
any other Act or in any proclamation, order, rule,  
regulation, by-law or other instrument or  
document shall, where the context allows, be read  
and construed as a reference to the Chief Judge of  
the court.

S. 9  
amended by  
No. 16/1986  
s. 16(a),  
repealed by  
No. 16/2005  
s. 7(1).

\* \* \* \* \*

S. 9A  
(Heading)  
inserted by  
No. 24/2008  
s. 47(1).

## 9A Protection of judges and associate judges

(1) A judge has in the performance of his or her  
duties as a judge the same protection and  
immunity as a judge of the Supreme Court has in  
the performance of his or her duties as a judge.

S. 9A  
inserted by  
No. 19/1989  
s. 7(h),  
amended by  
No. 24/2008  
s. 47(2) (ILA  
s. 39B(1)).

S. 9A(2)  
inserted by  
No. 24/2008  
s. 47(2).

(2) An associate judge has in the performance of his  
or her duties as an associate judge the same  
protection and immunity as a Judge of the  
Supreme Court has in the performance of his or  
her duties as a Judge.

---

**10 Salaries and allowances of the Chief Judge and other judges**

S. 10  
amended by  
Nos 6470  
s. 3 (as  
amended by  
No. 6489  
s. 4(Sch.  
item 26(b))),  
6621 s. 3(a)(b),  
6891 s. 3, 7055  
ss 3, 6, 7346  
s. 3(a)(b), 7581  
s. 3, 7940  
s. 3(a)(b), 8183  
s. 3(a), 8481  
s. 3(a)(i)(ii)(b),  
8625  
s. 5(a)(b), 8680  
s. 3(a)(i)(ii)(b)  
(i)(ii), 8853  
s. 3(a)(b), 9063  
s. 3(a)(b), 9176  
s. 3(a)(b), 9293  
s. 3(a)(b),  
substituted by  
No. 9468  
s. 3(a),  
amended by  
No. 9813  
ss 4(a)(b), 5.

- (1) The Chief Judge shall be paid a salary at the rate for the time being applicable under the **Judicial Salaries Act 2004**.

S. 10(1)  
amended by  
Nos 9813  
s. 4(a), 4/1987  
s. 4(1)(a)  
(i)–(iv),  
64/1990  
s. 20(Sch.  
item 2.1(a)),  
22/1995  
s. 21(1)(a)(b),  
4/2002  
s. 12(3)(a),  
38/2004  
s. 13(1).

County Court Act 1958  
6230/1958

Part I—Court Judges Officers Counsel and Practitioners

s. 10

S. 10(2)  
amended by  
Nos 9813  
s. 4(b), 4/1987  
s. 4(1)(b)  
(i)–(iv),  
64/1990  
s. 20(Sch.  
item 2.1(b)),  
22/1995  
s. 21(2)(a)(b),  
4/2002  
s. 12(3)(a),  
38/2004  
s. 13(2).

- (2) Each judge other than the Chief Judge shall be paid a salary at the rate for the time being applicable under the **Judicial Salaries Act 2004**.

S. 10(3)  
substituted by  
Nos 9813 s. 5,  
4/1987  
s. 4(1)(c),  
amended by  
No. 64/1990  
s. 20(Sch.  
item 2.1(c)  
(i)–(iv)),  
substituted by  
No. 22/1995  
s. 21(3),  
amended by  
No. 4/2002  
s. 12(3)(b),  
substituted by  
No. 38/2004  
s. 13(3).

- (3) Each judge shall be paid allowances at such rate or amount or of such kind as are for the time being applicable under the **Judicial Salaries Act 2004**.

S. 10(4)  
substituted by  
Nos 9813 s. 5,  
4/1987  
s. 4(1)(c),  
amended by  
No. 64/1990  
s. 20(Sch.  
item 2.1(d)  
(i)–(viii)),  
repealed by  
No. 22/1995  
s. 21(4)(a),  
new s. 10(4)  
inserted by  
No. 83/2008  
s. 7(1).

- (4) A judge may by notice in writing to the Attorney-General enter into an arrangement under which the judge agrees to receive the whole or part of his or her total amount of future salary as a judge as non-salary benefits of an equivalent value.

County Court Act 1958  
6230/1958  
Part I—Court Judges Officers Counsel and Practitioners

s. 10

\* \* \* \* \*

(5) The notice must specify a date from which the arrangement is to take effect which must be the date on which the notice is given or a later date.

**S. 10(4A)** inserted by No. 9813 s. 5, repealed by No. 4/1987 s. 4(1)(c).

**S. 10(5)** substituted by No. 4/1987 s. 4(1)(c), amended by No. 64/1990 s. 20(Sch. item 2.1(e)), repealed by No. 22/1995 s. 21(4)(a), new s. 10(5) inserted by No. 83/2008 s. 7(1).

(5A) A judge may vary or revoke a notice he or she has given under subsection (4) by notice in writing to the Attorney-General.

**S. 10(5A)** inserted by No. 83/2008 s. 7(1).

(6) The notice of variation or revocation must specify a date from which the variation or revocation is to take effect which must be the date on which the notice is given or a later date.

**S. 10(6)** amended by Nos 9549 s. 2(1)(Sch. item 49), substituted by No. 4/1987 s. 4(1)(c), amended by No. 64/1990 s. 20(Sch. item 2.1(e)), repealed by No. 22/1995 s. 21(4)(a), new s. 10(6) inserted by No. 83/2008 s. 7(1).

County Court Act 1958  
6230/1958

Part I—Court Judges Officers Counsel and Practitioners

s. 10

S. 10(6A)  
inserted by  
No. 4/1987  
s. 4(1)(c),  
repealed by  
No. 22/1995  
s. 21(4)(a).

\* \* \* \* \*

S. 10(6B)  
inserted by  
No. 4/1987  
s. 4(1)(c),  
amended by  
No. 22/1995  
s. 21(4)(b).

(6B) Nothing in this section authorises the salaries or the aggregate value of the allowances payable to the Chief Judge and the other judges to be reduced.

S. 10(6C)  
inserted by  
No. 83/2008  
s. 7(2).

(6C) An arrangement referred to in subsection (4) or (7A) does not constitute and is deemed never to have constituted a reduction in the salary of the judge of the Court who enters or entered into the arrangement.

S. 10(7)  
amended by  
Nos 64/1990  
s. 20(Sch.  
item 2.1(f)),  
22/1995  
s. 21(4)(c),  
substituted by  
No. 1/2000  
s. 4(1).

(7) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—

S. 10(7)(a)  
amended by  
No. 83/2008  
s. 7(3).

(a) the salaries (including the amount of any non-salary benefits) and allowances payable under this section; and

(b) premiums and other amounts payable under the **Accident Compensation (WorkCover Insurance) Act 1993** in respect of the judges; and

S. 10(7)(c)  
amended by  
No. 26/2007  
s. 109.

(c) payroll tax payable under the **Payroll Tax Act 2007** in respect of wages paid or payable to the judges; and

(d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to the judges.

- (7A) If, before the commencement of section 7 of the **Salaries Legislation Amendment (Salary Sacrifice) Act 2008** (the *2008 Act*), a judge entered into an arrangement under which the judge agreed to receive the whole or part of his or her total amount of salary as a judge as non-salary benefits of an equivalent value, that arrangement, by virtue of this subsection, has and is deemed always to have had full effect according to its tenor as if it had been authorised under this section.
- (7B) On and after the commencement of section 7 of the 2008 Act, an arrangement referred to in subsection (7A) may only be varied or revoked in accordance with subsection (5A).
- \* \* \* \* \*
- (9) This section does not apply to a judge who made an election under section 13A before the commencement of section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005** or an associate judge.
- (10) In subsection (4), *non-salary benefits* has the same meaning as it has in clause 3(5) of Schedule 1A to the **Public Administration Act 2004**.
- 11 Appointment of acting judges**
- (1) The Governor in Council may appoint as many acting judges of the court as are necessary for transacting the business of the court.

S. 10(7A)  
inserted by  
No. 83/2008  
s. 7(4).

S. 10(7B)  
inserted by  
No. 83/2008  
s. 7(4).

S. 10(8)  
repealed by  
No. 64/1990  
s. 20(Sch.  
item 2.1(g)).

S. 10(9)  
inserted by  
No. 16/1986  
s. 9(2)(a),  
amended by  
Nos 14/2006  
s. 8, 24/2008  
s. 48.

S. 10(10)  
inserted by  
No. 83/2008  
s. 7(5),  
amended by  
No. 34/2010  
s. 30.

S. 11  
repealed by  
No. 7840  
s. 19(b),  
new s. 11  
inserted by  
No. 3/2005  
s. 6.

- 
- (2) A person is not eligible for appointment as an acting judge unless he or she—
- (a) has not attained the age of 75 years and is or has been a judge or magistrate of—
    - (i) the High Court of Australia or of a court created by the Parliament of the Commonwealth; or
    - (ii) a court of Victoria or of another State or of the Northern Territory or the Australian Capital Territory; or
  - (b) has not attained the age of 70 years and has been admitted to legal practice in Victoria, another State, the Northern Territory or the Australian Capital Territory, or has been enrolled as a legal practitioner of the High Court of Australia, for not less than 5 years.
- (3) The instrument of appointment of a person as an acting judge must specify the terms and conditions of appointment.
- (4) The Attorney-General may from time to time, by notice in writing, require an acting judge to undertake the duties of a judge on a full time or sessional basis.
- (5) The Attorney-General does not have the power to revoke or amend a notice given under subsection (4).
- (6) An acting judge of the court—
- (a) has the same powers and jurisdiction as a judge of the court;
  - (b) is eligible for re-appointment as an acting judge of the court;

- 
- (c) ceases to hold office—
- (i) at the end of 5 years from the date of his or her appointment; or
  - (ii) on attaining the age of 70 years or, in the case of an acting judge of the court covered by subsection (2)(a), 75 years—
- whichever is the sooner;
- (d) may only be removed from office in the same way and on the same grounds as a judge of the court is liable to be removed from office.
- (7) Subject to subsection (8), each acting judge of the court, required to undertake the duties of a judge on a full time basis, shall be paid a salary at a rate no less than the rate for the time being applicable under the **Judicial Salaries Act 2004** to the holder of that office on other than an acting basis.
- (8) If an acting judge of the court, who is required to undertake the duties of a judge on a full time basis, is entitled to—
- (a) a non-contributory pension under a relevant Act within the meaning of section 16A of the **State Superannuation Act 1988**; or
  - (b) because he or she has held a public office in another jurisdiction, a non-contributory pension under any other law—
- the amount of pension to which the acting judge is entitled shall be deducted from the salary payable to that acting judge under subsection (7).
- (9) Subject to subsection (10), each acting judge of the court, required to undertake the duties of a judge on a sessional basis, shall be paid the sessional rate for the time being applicable under



the **Judicial Salaries Act 2004** to the holder of that office.

- (10) An acting judge of the court who is required to undertake the duties of a judge on a sessional basis and is entitled to—
- (a) a non-contributory pension under a relevant Act within the meaning of section 16A of the **State Superannuation Act 1988**; or
  - (b) because he or she has held a public office in another jurisdiction, a non-contributory pension under any other law—

shall be paid a salary calculated in accordance with the following formula—

$$S - \left( \frac{P}{235} \right)$$

where—

**S** means the sessional rate for the time being applicable under the **Judicial Salaries Act 2004** to the acting judge of the court;

**P** means the annual pension to which the acting judge is entitled that is referred to in paragraph (a) or (b).

- (11) Each acting judge shall be paid allowances at such rate or amount or of such kind as are for the time being applicable under the **Judicial Salaries Act 2004**.

- (11A) An acting judge of the court may by notice in writing to the Attorney-General enter into an arrangement under which the acting judge agrees to receive the whole or part of his or her total amount of future salary (whether or not payable at a sessional rate) as non-salary benefits of an equivalent value.

S. 11(11A)  
inserted by  
No. 83/2008  
s. 8(1).

- 
- (11B) The notice must specify a date from which the arrangement is to take effect which must be the date on which the notice is given or a later date. **S. 11(11B) inserted by No. 83/2008 s. 8(1).**
- (11C) An acting judge of the court may vary or revoke a notice he or she has given under subsection (11A) by notice in writing to the Attorney-General. **S. 11(11C) inserted by No. 83/2008 s. 8(1).**
- (11D) The notice of variation or revocation must specify a date from which the variation or revocation is to take effect which must be the date on which the notice is given or a later date. **S. 11(11D) inserted by No. 83/2008 s. 8(1).**
- (12) Except as provided by section 14(5)(aa), service as an acting judge of the court does not count as service in the office of judge of the court for the purposes of section 14.
- (13) Except with the approval of the Attorney-General, an acting judge of the court must not engage in legal practice, undertake paid employment or conduct a business, trade or profession of any kind while undertaking the duties of a judge.
- (14) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—
- (a) the amounts (including the amount of any non-salary benefits) payable to or for acting judges of the court; and **S. 11(14)(a) amended by No. 83/2008 s. 8(2).**
- (b) premiums and other amounts payable under the **Accident Compensation (WorkCover Insurance) Act 1993** in respect of those acting judges; and
- (c) payroll tax payable under the **Payroll Tax Act 2007** in respect of wages paid or payable to those acting judges; and **S. 11(14)(c) amended by No. 26/2007 s. 109.**

s. 13

(d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to those acting judges.

S. 11(15)  
inserted by  
No. 83/2008  
s. 8(3).

(15) If, before the commencement of section 8 of the **Salaries Legislation Amendment (Salary Sacrifice) Act 2008** (the *2008 Act*), an acting judge of the court entered into an arrangement under which the acting judge agreed to receive the whole or part of his or her total amount of salary (whether or not payable at a sessional rate) as an acting judge as non-salary benefits of an equivalent value, that arrangement, by virtue of this subsection, has and is deemed always to have had full effect according to its tenor as if it had been authorised under this section.

S. 11(16)  
inserted by  
No. 83/2008  
s. 8(3).

(16) On and after the commencement of section 8 of the 2008 Act, an arrangement referred to in subsection (15) may only be varied or revoked in accordance with subsection (11C).

S. 11(17)  
inserted by  
No. 83/2008  
s. 8(3).

(17) In subsection (11A), *non-salary benefits* has the same meaning as it has in clause 3(5) of Schedule 1A to the **Public Administration Act 2004**.

S. 12  
repealed by  
No. 7840  
s. 19(b).

\* \* \* \* \*

No. 6117 s. 13.  
S. 13  
amended by  
No. 43/1991  
s. 41(1)(a).

### 13 Judges not to engage in legal practice or sit in Parliament

S. 13(1)  
amended by  
No. 35/1996  
s. 453(Sch. 1  
item 15.2).

(1) No judge under this Act shall during his continuance in such office engage in legal practice or be capable of being elected or of sitting as a member of the Legislative Council or Legislative Assembly or of the Commonwealth Parliament.

(2) This section does not apply to a judge who has made an election under section 13A.

S. 13(2) inserted by No. 43/1991 s. 41(1)(b).

\* \* \* \* \*

S. 13A inserted by No. 16/1986 s. 9(1), amended by Nos 4/1987 s. 4(2), 64/1990 s. 20(Sch. item 2.2), 43/1991 s. 41(2), 9/1995 s. 8(1)–(4), 22/1995 s. 22, 35/1996 s. 453(Sch. 1 items 15.3, 15.4), 1/2000 s. 4(2), repealed by No. 3/2005 s. 7.

**14 Provision for pensions to County Court judges and their partners**

S. 14 (Heading) inserted by No. 23/2008 s. 10(1).  
No. 6117 s. 14.

(1) The commission of a judge ceases to be in force and the office becomes vacant—

S. 14(1) substituted by No. 16/1986 s. 8(b) (as amended by No. 107/1986 s. 9(a)(b)).

(aaa) on the judge being removed from office by the Governor in Council in accordance with Part IIIA of the **Constitution Act 1975**; or

S. 14(1)(aaa) inserted by No. 16/2005 s. 7(2).

(aa) on the abolition of the office of the judge by or under an Act; or

S. 14(1)(aa) inserted by No. 16/2005 s. 7(2).

s. 14

S. 14(1)(a)  
amended by  
No. 14/2006  
s. 9(a).

(a) in the case of a judge appointed before the commencement of section 8 of the **Courts Amendment Act 1986** who did not make an election under section 13A before the commencement of section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005**—upon the judge attaining the age of 72 years; or

S. 14(1)(b)  
amended by  
No. 14/2006  
s. 9(b).

(b) in the case of a judge appointed before the commencement of section 8 of the **Courts Amendment Act 1986** who made an election under section 13A before the commencement of section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005**—upon the judge attaining the age of 70 years; or

S. 14(1)(c)  
amended by  
No. 14/2006  
s. 9(c).

(c) in the case of a judge appointed on or after the commencement of section 8 of the **Courts Amendment Act 1986**—upon the judge attaining the age of 70 years.

S. 14(2)  
amended by  
No. 6901 s. 3,  
substituted by  
No. 7066  
s. 3(a),  
amended by  
Nos 7973  
s. 3(a), 8883  
s. 2(a), 9468  
s. 3(b).

(2) Every judge who—

S. 14(2)(a)  
substituted by  
No. 22/1995  
s. 23(1).

(a) has attained—  
(i) the age of 65 years; or

S. 14(2)(a)(ii)  
amended by  
No. 39/2003  
s. 4(1)(a).

(ii) in the case of a judge appointed before the commencement of section 23 of the **Judicial Remuneration Tribunal Act 1995**, the age of 60 years; or

(iii) in the case of a judge to whom subsection (5)(ac) or subsection (5)(ad) applies who was appointed as a judge after the commencement of section 23 of the **Judicial Remuneration Tribunal Act 1995** but who before that commencement had service that, by force of that subsection, counts as service in the office of judge under this Act, the age of 60 years—

S. 14(2)(a)(iii) inserted by No. 39/2003 s. 4(1)(b), amended by No. 34/2010 s. 3.

and has served for not less than 10 years in the office of judge; or

(b) has served for not less than 20 years in the office of judge; or

S. 14(2)(b) substituted by No. 22/1995 s. 23(1).

(c) having been appointed before attaining the age of 60 years, has become afflicted with some permanent incapacity disabling him or her from the due execution of the office; or

S. 14(2)(c) inserted by No. 22/1995 s. 23(1).

(d) in the case of a judge appointed after attaining the age of 60 years but before the commencement of section 23 of the **Judicial Remuneration Tribunal Act 1995**, has become afflicted with some permanent incapacity disabling him or her from the due execution of the office—

S. 14(2)(d) inserted by No. 22/1995 s. 23(1).

shall upon resignation or upon retirement as aforesaid from his office be entitled to a pension payable fortnightly at the rate per annum of sixty per centum of the annual salary—

(i) in the case of a chief judge—of the Chief Judge; and

(ii) in the case of any other judge—of a judge other than the Chief Judge—

for the time being applicable pursuant to section 10.

s. 14

S. 14(2A)  
inserted by  
No. 22/1995  
s. 23(2).

(2A) A judge who—

(a) had attained the age of 60 years when appointed as a judge; and

(b) has attained the age of 70 years—

is entitled, upon resignation or retirement from office to a pension payable fortnightly at the proportion of the rate of the pension that would have been payable if he or she had served 10 years that is equal to the proportion of 10 years served as a judge.

S. 14(2B)  
inserted by  
No. 22/1995  
s. 23(2).

(2B) A judge who—

(a) had attained the age of 60 years when appointed as a judge; and

(b) has become afflicted with some permanent incapacity disabling him or her from the due execution of his or her office—

is entitled, upon resignation or retirement from office, to a pension payable fortnightly at the rate of the pension that would have been payable under subsection (2A) if he or she had served until attaining the age of 70 years.

S. 14(3)  
amended by  
Nos 7066  
s. 3(b), 7973  
s. 3(b), 8883  
s. 2(b), 9468  
s. 3(c),  
23/2008  
s. 10(2)(a)(b).

(3) Upon the death—

(a) of any judge under this Act or the **County Court Act 1957**; or

(b) of any person who was formerly a judge under this Act or a judge of county courts under the **County Court Act 1928**—

the partner of the judge shall until death or marriage or until the partner becomes the domestic partner of another person be entitled to a pension payable fortnightly at the rate of three-eighths of the annual salary for the time being payable—

- (i) in the case of a chief judge or a former chief judge—of the Chief Judge; and
- (ii) in the case of any other judge or former judge—of a judge other than the Chief Judge.

Provided that no pension is payable to the partner of any former judge in any case where that partner married or became the domestic partner of the former judge after that judge's resignation or retirement, unless in the case of marriage, the spouse was the domestic partner of the judge immediately prior to that judge's resignation or retirement.

S. 14(3)  
(Proviso)  
substituted by  
No. 23/2008  
s. 10(2)(c).

- (3AA) Where there are eligible children of a deceased judge and no pension is otherwise payable under subsection (2) or (3) to or in respect of that judge there shall be paid to such person or persons as the Attorney-General directs a pension in respect of each eligible child at the rate of pension applicable to the child under subsection (3AB).

S. 14(3AA)  
inserted by  
No. 9468  
s. 3(d).

- (3AB) The pension applicable to each eligible child shall be the amount of the pension that would be payable to the partner of the judge if the partner was entitled to a pension under this Part divided by four or the number of eligible children (whichever is the greater).

S. 14(3AB)  
inserted by  
No. 9468  
s. 3(d),  
amended by  
No. 23/2008  
s. 10(2)(a).

- (3AC) ***Eligible child in relation to a judge*** means a child adopted child or stepchild of the judge or his or her partner—

S. 14(3AC)  
inserted by  
No. 9468  
s. 3(d),  
amended by  
No. 23/2008  
s. 11.

- (a) who is under the age of 16 years; or
- (b) who—
  - (i) has attained the age of 16 years but is under the age of 25 years; and
  - (ii) is receiving full-time education at a school college or university.



**s. 14**

**S. 14(3A)**  
inserted by  
No. 7973  
s. 3(c).

(3A) Unless the Governor in Council by Order published in the Government Gazette otherwise determines in any particular case the right of a judge to a pension under this section—

(a) shall cease upon his accepting appointment to any judicial office in or outside Victoria; and

**S. 14(3A)(ab)**  
inserted by  
No. 39/2003  
s. 4(2),  
amended by  
No. 3/2005  
s. 15(1).

(ab) shall be diminished by the amount of any pension to which he or she is entitled under the law of the Commonwealth or of another State or of the Northern Territory or the Australian Capital Territory, being a pension for which he or she qualified because of service that, by force of subsection (5)(ac) or (5)(ad), was or could have been counted as service in the office of judge under this Act; and

(b) shall be suspended while—

(i) he holds any office or place of profit under the Crown in right of the Commonwealth or of a State; or

**S. 14(3A)(b)(ii)**  
amended by  
No. 35/1996  
s. 453(Sch. 1  
item 15.5(a)  
(b)).

(ii) he is engaged in legal practice in any State or Territory of the Commonwealth or is employed by any legal practitioner in connexion with his practice in any such State or Territory:

Provided that this subsection does not apply to or in relation to a judge who resigned or retired before the 15th day of February, 1970.

**S. 14(4)**  
amended by  
Nos 19/1989  
s. 7(i), 19/2001  
s. 12.

(4) All pensions under this section and any payments of lump sums provided by the commutation of those pensions shall be payable out of the Consolidated Fund which is hereby appropriated accordingly.

(5) For the purposes of this section—

(aa) if any judge or associate judge under this Act was immediately prior to his or her appointment—

**S. 14(5)(aa)**  
inserted by  
No. 3/2005  
s. 8,  
amended by  
No. 24/2008  
s. 49(a).

(i) an acting judge of the court; or

(ii) an acting Judge of the Supreme Court—

his or her service as acting judge shall count as service in the office of judge or associate judge of the court (as the case may be);

(a) if any judge under this Act is or has been at any time after his appointment appointed to be an acting judge of the Supreme Court his service as an acting judge of the Supreme Court shall count as service in the office of judge under this Act but in the computation of pensions under this section the salary he was receiving immediately before his resignation retirement or death (as the case may be) shall in every case be deemed to be the salary then applicable to the office of judge under this Act;

(ab) if any judge under this Act was immediately prior to his or her appointment Director of Public Prosecutions, Chief Crown Prosecutor or a Senior Crown Prosecutor, his or her service as Director of Public Prosecutions, Chief Crown Prosecutor or Senior Crown Prosecutor shall count as service in the office of judge under this Act;

**S. 14(5)(ab)**  
inserted by  
No. 43/1994  
s. 54.

(ac) if any judge under this Act was immediately prior to his or her appointment—

**S. 14(5)(ac)**  
inserted by  
No. 39/2003  
s. 4(3).

(i) a judge of the High Court of Australia or of a court created by the Parliament of the Commonwealth, other than the Federal Magistrates Court; or

s. 14

- (ii) a judge of a court of another State or of the Northern Territory or the Australian Capital Territory, other than a Magistrates' Court or equivalent court—

his or her service as such a judge shall count as service in the office of judge under this Act;

S. 14(5)(ad) inserted by No. 3/2005 s. 15(2).

- (ad) if any judge under this Act was immediately prior to his or her appointment—

S. 14(5)(ad)(i) amended by No. 24/2008 s. 49(b)(i).

- (i) a master or associate judge of the court; or

S. 14(5)(ad)(ii) amended by No. 24/2008 s. 49(b)(ii).

- (ii) a Master of the Supreme Court or, an Associate Judge of the Supreme Court, or a master or an associate judge (however described) of a court of another State, the Northern Territory or the Australian Capital Territory, other than the Magistrates' Court or equivalent court—

his or her service as such shall count as service in the office of judge under this Act;

- (b) any reference to a judge under this Act or the **County Court Act 1957** or under the **County Court Act 1928** shall not be deemed to include a reference to a deputy judge or an acting judge.

S. 14(6) repealed by No. 7985 s. 2(1), new s. 14(6) inserted by No. 30/2005 s. 5.

- (6) For the purposes of subsection (5)(ab), if a judge under this Act who immediately prior to his or her appointment held the office of Director of Public Prosecutions, Chief Crown Prosecutor or a Senior Crown Prosecutor (a *relevant office*) had also held another one or two of those relevant offices immediately prior to, or successively prior to, his

or her appointment to the last relevant office held by him or her, then his or her service in that other relevant office or those other relevant offices counts as service in the last of the relevant offices held by him or her.

- (7) For the purpose of regulation 65 of the Family Law (Superannuation) Regulations 2001 of the Commonwealth, the Minister on the advice of an actuary appointed by the Minister may from time to time determine the accrued benefit multiple.
- (8) Subject to subsections (12) and (13), the Minister must comply with subsections (10) and (11) if—
- (a) a superannuation agreement which provides for a payment split; or
  - (b) a flag lifting agreement which provides for a payment split; or
  - (c) a splitting order—

S. 14(7)  
inserted by  
No. 23/2008  
s. 12.

S. 14(8)  
inserted by  
No. 23/2008  
s. 12,  
amended by  
No. 38/2009  
s. 21(1).

is served on the Minister under Part VIIIB or VIIIAB of the Family Law Act 1975 of the Commonwealth.

- (9) Subsections (10) and (11) also apply to—
- (a) a superannuation agreement which provides for a payment split; or
  - (b) a flag lifting agreement which provides for a payment split; or
  - (c) a splitting order—

S. 14(9)  
inserted by  
No. 23/2008  
s. 12.

which was served on the Minister under Part VIIIB of the Family Law Act 1975 of the Commonwealth before the commencement of section 9 of the **Constitution Amendment (Judicial Pensions) Act 2008** if the non-member spouse's entitlements in respect of the superannuation interest have not been satisfied as at that commencement.

s. 14

S. 14(9A)  
inserted by  
No. 38/2009  
s. 21(2).

(9A) This section also applies to—

- (a) a superannuation agreement which provides for a payment split; or
- (b) a flag lifting agreement which provides for a payment split; or
- (c) a splitting order—

which was served on the Minister under Part VIIIAB of the Commonwealth Family Law Act 1975 before the commencement of section 21 of the **Superannuation Legislation Amendment Act 2009** if the non-member spouse's entitlements in respect of the superannuation interest have not been satisfied as at that commencement.

S. 14(10)  
inserted by  
No. 23/2008  
s. 12.

(10) If the non-member spouse has not satisfied a relevant condition of release and the member spouse is not receiving a pension under this Act, the Minister must if the value of the non-member spouse's entitlement in respect of the superannuation interest at the particular time does not exceed the value of the member spouse's interest in the Fund—

- (a) transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible superannuation plan nominated in writing by the non-member spouse within the specified period; or
- (b) if the non-member spouse fails to nominate in writing an eligible superannuation plan within the specified period, transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible rollover fund selected by the Minister.

(11) If the non-member spouse has satisfied a relevant condition of release or the member spouse is receiving a pension under this Act, the Minister must if the value of the non-member spouse's entitlement in respect of the superannuation interest at the particular time does not exceed the value of the member spouse's interest in the Fund—

S. 14(11)  
inserted by  
No. 23/2008  
s. 12.

- (a) if so requested in writing by the non-member spouse within the specified period, pay the non-member spouse a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment; or
- (b) if so requested in writing by the non-member spouse within the specified period, transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible superannuation plan nominated in writing by the non-member spouse; or
- (c) if no request is received from the non-member spouse within the specified period, transfer a lump sum amount equal to the value of the non-member spouse's entitlement in respect of the superannuation interest at the time of the payment to an eligible rollover fund selected by the Minister.

(12) Subsections (10) and (11) do not apply if—

- (a) the member spouse's superannuation interest is an unsplittable interest; or
- (b) a payment flag is operating in respect of the member spouse's superannuation interest; or

S. 14(12)  
inserted by  
No. 23/2008  
s. 12.

s. 14

- (c) the non-member spouse has served a waiver notice on the Minister under section 90MZA of the Family Law Act 1975 of the Commonwealth in respect of the member spouse's superannuation interest; or
- (d) the member spouse's superannuation interest is a payment that is not a splittable payment under Part 2 of the Family Law (Superannuation) Regulations 2001 of the Commonwealth.

S. 14(13)  
inserted by  
No. 23/2008  
s. 12.

- (13) If the member spouse's superannuation interest is a pension under this Act due to a disability which is a splittable payment, the Minister may determine that subsections (10) and (11) do not apply.

S. 14(14)  
inserted by  
No. 23/2008  
s. 12.

- (14) If the non-member spouse serves a waiver notice on the Minister under section 90MZA of the Family Law Act 1975 of the Commonwealth in respect of the member spouse's superannuation interest, the Minister may make a payment to the non-member spouse not exceeding the value at a particular time of the non-member spouse's entitlement in respect of the superannuation interest less any payments previously made by the Minister to the non-member spouse in accordance with this section.

S. 14(15)  
inserted by  
No. 23/2008  
s. 12.

- (15) Despite anything to the contrary in this Act, if under subsection (10), (11) or (14) an amount is paid by the Minister to a non-member spouse or transferred by the Minister on behalf of a non-member spouse, the benefit of a member spouse must be reduced by the Minister in accordance with a methodology approved by the Minister, on the advice of an actuary appointed by the Minister.

- 
- (16) On the application of an eligible person within the meaning of section 90MZB(8) of the Family Law Act 1975 of the Commonwealth, the Minister may provide information additional to the information required to be provided under section 90MZB of that Act if the Minister considers that the additional information is necessary to understand the member spouse's benefit entitlements. **S. 14(16) inserted by No. 23/2008 s. 12.**
- (17) The entitlement of a person to convert or commute a benefit or pension under this Act is not affected by the making of a payment or transfer under subsection (10), (11) or (14). **S. 14(17) inserted by No. 23/2008 s. 12.**
- (18) The Minister may charge reasonable fees in respect of— **S. 14(18) inserted by No. 23/2008 s. 12.**
- (a) a payment split;
  - (b) a payment flag;
  - (c) flag lifting under a flag lifting agreement that does not provide for a payment split;
  - (d) an order under section 90MM of the Family Law Act 1975 of the Commonwealth terminating the operation of a payment flag;
  - (e) an application under section 90MZB of the Family Law Act 1975 of the Commonwealth for information about a superannuation interest;
  - (f) any other thing done by the Minister in relation to a superannuation interest covered by a superannuation agreement, flag lifting agreement or splitting order;
  - (g) the provision of information under subsection (16).
- (19) Fees charged under subsection (18) must not exceed the maximum levels of fees fixed by the Minister for the purposes of this section by notice published in the Government Gazette. **S. 14(19) inserted by No. 23/2008 s. 12.**



s. 14AA

S. 14(20)  
inserted by  
No. 23/2008  
s. 12.

- (20) If the Minister charges a fee under subsection (18), the fee is payable—
- (a) unless paragraph (b) applies, in the case of subsection (18)(a), (18)(b), (18)(c), (18)(d) or (18)(f), by the member spouse and the non-member spouse in equal parts;
  - (b) if the fee is in respect of a payment split under which the non-member spouse is entitled to be paid the whole of the amount of each splittable payment that becomes payable, by the non-member spouse;
  - (c) in the case of subsection (18)(e) or (18)(g), by the person who made the application.

S. 14(21)  
inserted by  
No. 23/2008  
s. 12.

- (21) For the purposes of this section, the Minister may, with such modifications as are necessary, adopt any specified standards made by Order in Council under section 92A of the **State Superannuation Act 1988** for the purposes of Part 7A of that Act.

S. 14(22)  
inserted by  
No. 40/2010  
s. 108.

- (22) For the purposes of subsection (3), the definition of *partner* as substituted by section 107 of the **Superannuation Legislation Amendment Act 2010** applies in respect of the entitlement to a pension of a partner of a judge or former judge only if the death of the judge or former judge occurs on or after the commencement of the substituting section.

S. 14AA  
inserted by  
No. 19/2001  
s. 13.

**14AA Election of County Court judges to commute future pensions for payment of superannuation contributions surcharge**

S. 14AA(1)  
amended by  
No. 23/2008  
s. 10(3).

- (1) A judge may elect in writing to the Minister to have part of his or her future pension entitlement and that of his or her partner or eligible child, if any, under this Act commuted to provide a lump sum for the purposes of payment of the whole of the liability for the superannuation contributions surcharge arising because of the entitlement of the

judge or his or her partner or eligible child to receive a pension under this Act.

- (2) A judge may by notice in writing to the Minister revoke his or her election under subsection (1).

**14AB Actuary's first calculation after election of judges to commute pensions**

S. 14AB  
inserted by  
No. 19/2001  
s. 13.

- (1) If an election under section 14AA is in operation, within 10 days after the day on which a judge resigns, retires or dies while in office, the Minister must—

- (a) cause an actuary to determine the extent to which the former judge's pension and any future entitlement of the judge's partner or eligible child to a pension upon the judge's death otherwise payable under this Act will be reduced subject to subsection (4) and taking into account the lump sum to be provided by the commutation of part of the judge's total pension entitlement and that of his or her partner or eligible child at the time at which the former judge became entitled to his or her pension for the purposes of payment of the whole of the liability for the superannuation contributions surcharge; and
- (b) notify the former judge or, if he or she has died, the former judge's partner or eligible child of the actuary's determination under subsection (1)(a).

S. 14AB(1)(a)  
amended by  
No. 23/2008  
s. 10(3).

S. 14AB(1)(b)  
amended by  
No. 23/2008  
s. 10(3).

- (2) A former judge or, if he or she has died, the former judge's partner or eligible child may revoke the election under section 14AA within 10 days after the Minister's notification under subsection (1)(b).

S. 14AB(2)  
amended by  
No. 23/2008  
s. 10(3).

- (3) If an election under section 14AA is in operation, the former judge's pension and any future entitlement of the former judge's partner or

S. 14AB(3)  
amended by  
No. 23/2008  
s. 10(3).

s. 14AC

eligible child to a pension upon the judge's death otherwise payable from time to time under this Act must be reduced to the extent determined under subsection (1).

(4) For the purposes of subsection (1)—

- (a) the reduction of the former judge's pension must not exceed 15% of his or her total pension entitlement under the Act on the day on which the judge resigned or retired; and
- (b) the reduction of any future entitlement of the judge's partner or eligible child to a pension must not exceed 15% of an amount equal to the total pension entitlement of the judge's partner and eligible children on the day on which the judge resigned, retired or died while in office; and
- (c) each reduction referred to in paragraph (a) and (b) must be a fixed percentage to be applied to the pension entitlement under the Act and, if paragraphs (a) and (b) both apply, the percentage must be the same; and
- (d) each reduction must be applied from the entitlement day according to paragraph (a) or (b).

S. 14AB(4)(b)  
amended by  
No. 23/2008  
s. 10(3).

S. 14AC  
inserted by  
No. 19/2001  
s. 13.

**14AC Actuary's second calculation after election of the judges to commute pensions and payment of lump sums**

S. 14AC(1)  
amended by  
No. 23/2008  
s. 10(3)(4).

- (1) If an election under section 14AA is in operation, a former judge or, if he or she has died, the judge's partner or eligible child must, within 60 days after the day on which a superannuation contributions surcharge notice was issued in respect of the judge's pension or his or her partner's or eligible child's pension, lodge with the Minister—

- 
- (a) a notice that authorises the Minister to pay the lump sum that is equal to the superannuation contributions surcharge on behalf of the former judge or his or her partner or eligible child to the Commissioner of Taxation to be applied wholly towards payment of the superannuation contributions surcharge; and
- (b) a copy of the superannuation contributions surcharge notice.
- (2) Within 10 days after the day on which the Minister received the authorisation and a copy of the superannuation contributions surcharge notice under subsection (1), the Minister must cause an actuary—
- (a) to review the determination made under section 14AB(1); and
- (b) subject to section 14AB(4), make any necessary adjustments to the determination and to the pension payable to the former judge and to any future entitlement of the former judge's partner or eligible child to a pension upon the judge's death.
- (3) If an election under section 14AA is in operation and the Minister has received an authorisation under subsection (1), the Minister must cause the amount of the lump sum to be paid to the Commissioner of Taxation within the period stated in the superannuation contributions surcharge notice to be applied towards payment of the superannuation contributions surcharge.

**S. 14AC(1)(a)**  
amended by  
**No. 23/2008**  
s. 10(3).

**S. 14AC(2)(b)**  
amended by  
**No. 23/2008**  
s. 10(3).

**s. 14AD**

S. 14AD  
inserted by  
No. 19/2001  
s. 13.

**14AD Election of former judges to commute pensions for payment of superannuation contributions surcharge**

S. 14AD(1)  
amended by  
No. 23/2008  
s. 10(3).

- (1) If no election under section 14AA is in operation, a former judge who is entitled to receive a pension under this Act may elect to have part of his or her pension and that of his or her partner or eligible child, if any, commuted to provide a lump sum for the purposes of payment of the whole or part of the liability for the superannuation contributions surcharge arising because of the entitlement of the former judge or his or her partner or eligible child to receive a pension under this Act.

- (2) An election under subsection (1) must—

S. 14AD(2)(a)  
amended by  
No. 23/2008  
s. 10(4).

- (a) be made in writing to the Minister within 60 days after the day on which a superannuation contributions surcharge notice is issued in respect of a former judge's pension or his or her partner's or eligible child's pension; and
- (b) specify the amount of the lump sum (not exceeding the superannuation contributions surcharge) to be provided by the commutation of the pensions; and

S. 14AD(2)(c)  
amended by  
No. 23/2008  
s. 10(3).

- (c) authorise the Minister to pay the lump sum on behalf of the former judge or his or her partner or eligible child to the Commissioner of Taxation to be applied wholly towards payment of the superannuation contributions surcharge; and
- (d) be accompanied by a copy of the superannuation contributions surcharge notice.

**14AE Actuary's calculation after former judges' election to commute pensions**

S. 14AE inserted by No. 19/2001 s. 13.

(1) If an election under section 14AD is in operation, the Minister must within 10 days after the day on which the Minister received the election—

(a) cause an actuary to determine the extent to which a former judge's pension and any future entitlement of the partner or eligible child of the former judge to a pension upon the judge's death otherwise payable under this Act will be reduced subject to section 14F(3) and taking into account the specified amount of the lump sum to be provided by the commutation of the pensions; and

S. 14AE(1)(a) amended by No. 23/2008 s. 10(3).

(b) notify the former judge or, if he or she has died, the former judge's partner or eligible child of the actuary's determination under subsection (1)(a).

S. 14AE(1)(b) amended by No. 23/2008 s. 10(3).

(2) A former judge or, if he or she has died, the former judge's partner or eligible child may revoke the election under section 14AD within 10 days after the Minister's notification under subsection (1)(b).

S. 14AE(2) amended by No. 23/2008 s. 10(3).

**14AF Payment and commutation of pensions of former judges**

S. 14AF inserted by No. 19/2001 s. 13.

(1) If an election under section 14AD is in operation, the Minister must cause the amount of the lump sum to be paid to the Commissioner of Taxation within the period stated in the superannuation contributions surcharge notice to be applied towards payment of the superannuation contributions surcharge.

(2) The former judge's pension and any future entitlement of the judge's partner or eligible child to a pension upon the judge's death otherwise payable from time to time under this Act must be

S. 14AF(2) amended by No. 23/2008 s. 10(3).

**s. 14AG**

reduced to the extent determined under section 14AE in consequence of the payment of the lump sum.

(3) For the purposes of section 14AE—

- (a) the reduction of the former judge's pension must not exceed 15% of his or her total pension entitlement under the Act on the day on which the judge resigned or retired; and
- (b) the reduction of any future entitlement of the judge's partner or eligible child to a pension must not exceed 15% of an amount equal to the total pension entitlement of the judge's partner and eligible children on the day on which the judge resigned or retired; and
- (c) each reduction referred to in paragraph (a) and (b) must be a fixed percentage to be applied to the pension entitlement under the Act and, if paragraphs (a) and (b) both apply, the percentage must be the same; and
- (d) the reduction must be applied from the day of payment of the lump sum under subsection (1).

S. 14AF(3)(b)  
amended by  
No. 23/2008  
s. 10(3).

S. 14AG  
(Heading)  
amended by  
No. 23/2008  
s. 10(5).

S. 14AG  
inserted by  
No. 19/2001  
s. 13.

S. 14AG(1)  
amended by  
No. 23/2008  
s. 10(3).

**14AG Election of judges' partners and eligible children to commute pensions for payment of superannuation contributions surcharge**

- (1) If no election made under section 14AA or 14AD is in operation, a person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former judge may elect to have part of his or her pension commuted to provide a lump sum for the purposes of payment of the whole or part of the liability for the

superannuation contributions surcharge arising because of the entitlement of the former judge to receive a pension under this Act or the entitlement of the deceased former judge's partner or eligible child to receive a pension under this Act.

(2) An election under subsection (1) must—

- (a) be made in writing to the Minister within 60 days after the day on which a superannuation contributions surcharge notice was issued in respect of the deceased former judge's pension or his or her partner's or eligible child's pension; and
- (b) specify the amount of the lump sum (not exceeding the superannuation contributions surcharge) to be provided by the commutation of the pension; and
- (c) authorise the Minister to pay the lump sum on behalf of the person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former judge to the Commissioner of Taxation to be applied wholly towards payment of the superannuation contributions surcharge; and
- (d) be accompanied by a copy of the superannuation contributions surcharge notice.

S. 14AG(2)(a)  
amended by  
No. 23/2008  
s. 10(4).

S. 14AG(2)(c)  
amended by  
No. 23/2008  
s. 10(3).

**14AH Actuary's calculation of reduction of pensions of judges' partners and eligible children**

(1) If an election is made under section 14AG, the Minister must within 10 days after the day on which the Minister received the election—

- (a) cause an actuary to determine the extent to which the pension of a person who is entitled to receive a pension under this Act as the

S. 14AH  
(Heading)  
amended by  
No. 23/2008  
s. 10(5).

S. 14AH  
inserted by  
No. 19/2001  
s. 13.

S. 14AH(1)(a)  
amended by  
No. 23/2008  
s. 10(3).



s. 14AI

partner or eligible child of a deceased former judge otherwise payable under this Act will be reduced subject to section 14AI(3) and taking into account the specified amount of the lump sum to be provided by the commutation of the pension; and

(b) notify the person of the actuary's determination under subsection (1)(a).

S. 14AH(2)  
amended by  
No. 23/2008  
s. 10(3).

(2) A person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former judge may revoke his or her election under section 14AG within 10 days after the Minister's notification under subsection (1)(b).

S. 14AI  
(Heading)  
amended by  
No. 23/2008  
s. 10(5).

**14AI Payment and commutation of pensions of former judges' partners and eligible children**

S. 14AI  
inserted by  
No. 19/2001  
s. 13.

(1) If an election under section 14AG is in operation, the Minister must cause the amount of the lump sum to be paid to the Commissioner of Taxation within the period stated in the superannuation contributions surcharge notice to be applied towards payment of the superannuation contributions surcharge.

S. 14AI(2)  
amended by  
No. 23/2008  
s. 10(3).

(2) On payment of the lump sum, the pension of a person entitled to receive a pension as the partner or eligible child of the deceased former judge otherwise payable from time to time under this Act must be reduced to the extent determined under section 14AH.

(3) For the purposes of section 14AH—

S. 14AI(3)(a)  
amended by  
No. 23/2008  
s. 10(3).

(a) the reduction of any future entitlement of the judge's partner or eligible child to a pension must not exceed 15% of—

S. 14AI(3)(a)(i)  
amended by  
No. 23/2008  
s. 10(3).

(i) an amount equal to the total pension entitlement of the judge and his or her partner and eligible children on the day

on which the judge resigned or retired;  
or

- (ii) in the case of the judge's death while in office, an amount equal to his or her partner's and eligible children's total pension entitlement on the day on which the judge died; and
- (b) the reduction must be a fixed percentage to be applied to the pension entitlement under the Act; and
- (c) the reduction must be applied from the day of payment of the lump sum under subsection (1).

S. 14A(3)(a)(ii)  
amended by  
No. 23/2008  
s. 10(4).

**14A Appointment of judicial members of Liquor Control Commission as judges**

S. 14A  
inserted by  
No. 85/1987  
s. 3(a).

- (1) This section applies to a person who immediately before the commencement of section 3(a) of the **Courts (Amendment) Act 1987** was a judicial member of the Liquor Control Commission constituted under the **Liquor Control Act 1968**.
- (2) If a person to whom this section applies is appointed as a judge of the County Court, that person's service as a judicial member of the Liquor Control Commission counts, for the purposes of section 14, as service in the office of judge under this Act.

**15 Power to exercise functions of judge or associate judge by another**

No. 6117 s. 15.  
S. 15  
amended by  
No. 19/1989  
s. 7(j)(i)–(iii),  
substituted by  
No. 24/2008  
s. 50.

Despite anything in any Act, any power, duty or act which might have been exercised or performed by any judge or associate judge but for—

- (a) his or her having ceased for any reason to be a judge or associate judge; or

s. 17

(b) his or her absence on leave or vacation or in consequence of sickness or otherwise—

shall be exercisable or performable by any other judge or associate judge (as the case requires).

S. 16  
amended by  
No. 6891 s. 4,  
repealed by  
No. 3/2005  
s. 7.

\* \* \* \* \*

S. 16A  
inserted by  
No. 9957 s. 2,  
repealed by  
No. 3/2005  
s. 7.

\* \* \* \* \*

No. 6117 s. 17.  
S. 17  
amended by  
No. 8625 s. 6.

### 17 Appointment of judges temporarily or during pleasure valid

All commissions of appointment of qualified persons as judges or as deputy judges, to hold office or to act temporarily or during pleasure made before the commencement of this Act shall be and shall be held in all courts to be and to have been valid and effectual notwithstanding any existing Act or law to the contrary and all commissions of appointment of qualified persons as judges or as acting judges, to hold office or to act temporarily or during pleasure to be made after the said commencement shall be and shall be held in all courts to be valid and effectual notwithstanding any existing Act or law to the contrary.

---

**Division 3AA—Professional development and training**

Pt 1 Div. 3AA  
(Heading and  
s. 17AAA)  
inserted by  
No. 24/2007  
s. 4.

**17AAA Professional development and training**

S. 17AAA  
inserted by  
No. 24/2007  
s. 4.

(1) In this section—

*judicial officer* means—

S. 17AAA(1)  
def. of  
*judicial officer*  
amended by  
Nos 24/2008  
s. 51, 34/2010  
s. 31.

- (a) a judge; or
  - (b) an associate judge; or
  - (c) a judicial registrar.
- (2) The Chief Judge is responsible for directing the professional development and continuing education and training of judicial officers.
- (3) In discharging his or her responsibility under subsection (2) the Chief Judge may direct—
- (a) all judicial officers; or
  - (b) a specified class of judicial officer; or
  - (c) a specified judicial officer—
- to participate in a specified professional development or continuing education and training activity.
- (4) A direction under subsection (3) may be given orally or in writing.

s. 17A

Pt 1 Div. 3A  
(Heading and  
s. 17A)  
inserted by  
No. 10117  
s. 4(1).

Pt 1 Div. 3A  
(Heading)  
amended by  
No. 24/2008  
s. 52.

S. 17A  
inserted by  
No. 10117  
s. 4(1),  
amended by  
Nos 16/1986  
s. 8(c),  
19/1989  
s. 7(k),  
64/1990 s. 5,  
22/1995 s. 24,  
46/1998  
s. 7(Sch. 1),  
31/2004 s. 11,  
108/2004  
s. 117(1)(Sch.  
3 item 47),  
16/2005  
s. 7(3)(4),  
18/2005  
s. 18(Sch. 1  
item 25.3),  
substituted by  
No. 24/2008  
s. 53.

### Division 3A—Associate Judges

#### 17A Associate judges

- (1) The Governor in Council may appoint one or more persons to be associate judges of the court.
- (2) An associate judge ceases to hold office only—
  - (a) if he or she resigns by delivering to the Governor a signed letter of resignation; or
  - (b) if he or she is removed from office by the Governor in Council in accordance with Part IIIAA of the **Constitution Act 1975**; or
  - (c) if his or her office is abolished; or
  - (d) if he or she is not capable of continuing in office because of subsection (5).
- (3) A person must not be appointed as an associate judge unless the person—
  - (a) is or has been a judge, an associate judge or a magistrate of—
    - (i) the High Court of Australia or of a court created by the Parliament of the Commonwealth; or
    - (ii) a court of Victoria or of another State or of the Northern Territory or the Australian Capital Territory; or
  - (b) is an Australian lawyer of at least 5 years' standing.

- 
- (4) An associate judge—
- (a) is entitled to such salaries and allowances as are from time to time payable under section 17AA; and
  - (b) is not subject to the **Public Administration Act 2004**.
- (5) A person who has attained the age of 70 years is not capable of being appointed to or continuing in office as an associate judge.

**17ABA Functions of associate judges**

S. 17ABA  
inserted by  
No. 24/2008  
s. 54.

- (1) The Chief Judge may assign duties to an associate judge.
- (2) An associate judge must carry out the duties from time to time assigned to him or her under subsection (1).
- (3) Without limiting subsection (1), an associate judge must—
  - (a) assist in the general business of the court; and
  - (b) perform such duties and exercise such powers and authorities as are imposed or conferred on the associate judge by or under this Act or any other Act or by the Rules.

s. 17AA

**17AA Salaries and allowances of associate judges**

S. 17AA  
(Heading)  
inserted by  
No. 24/2008  
s. 55(1).

S. 17AA  
inserted by  
No. 22/1995  
s. 25.

S. 17AA(1)  
amended by  
No. 4/2002  
s. 12(3)(c),  
substituted by  
No. 38/2004  
s. 13(4),  
amended by  
No. 24/2008  
s. 55(2)(a).

- (1) Each associate judge of the court shall be paid a salary at the rate for the time being applicable under the **Judicial Salaries Act 2004**.

S. 17AA(2)  
amended by  
No. 4/2002  
s. 12(3)(c),  
substituted by  
No. 38/2004  
s. 13(5),  
amended by  
No. 24/2008  
s. 55(2)(a).

- (2) Each associate judge of the court shall be paid allowances at such rate or amount or of such kind as are for the time being applicable under the **Judicial Salaries Act 2004**.

S. 17AA(2A)  
inserted by  
No. 83/2008  
s. 9(1),  
amended by  
No. 83/2008  
s. 10.

- (2A) An associate judge may by notice in writing to the Attorney-General enter into an arrangement under which the associate judge agrees to receive the whole or part of his or her total amount of future salary as an associate judge as non-salary benefits of an equivalent value.

S. 17AA(2B)  
inserted by  
No. 83/2008  
s. 9(1).

- (2B) The notice must specify a date from which the arrangement is to take effect which must be the date on which the notice is given or a later date.

S. 17AA(2C)  
inserted by  
No. 83/2008  
s. 9(1),  
amended by  
No. 83/2008  
s. 10(a).

- (2C) An associate judge may vary or revoke a notice he or she has given under subsection (2A) by notice in writing to the Attorney-General.

County Court Act 1958  
6230/1958

Part I—Court Judges Officers Counsel and Practitioners

s. 17AA

- 
- |  |   |
|--|---|
| (2D) The notice of variation or revocation must specify a date from which the variation or revocation is to take effect which must be the date on which the notice is given or a later date.   | S. 17AA(2D)<br>inserted by<br>No. 83/2008<br>s. 9(1).   |
| (3) Nothing in this section authorises the salaries or the aggregate value of the allowances payable to the associate judges to be reduced.  | S. 17AA(3)<br>amended by<br>No. 24/2008<br>s. 55(2)(b).   |
| (3A) An arrangement referred to in subsection (2A) or (5) does not constitute and is deemed never to have constituted a reduction in the salary of the associate judge who enters or entered into the arrangement.                                   | S. 17AA(3A)<br>inserted by<br>No. 83/2008<br>s. 9(2),<br>amended by<br>No. 83/2008<br>s. 10(c). |
| (4) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—  | S. 17AA(4)<br>substituted by<br>No. 1/2000<br>s. 4(3).  |
| (a) the salaries (including the amount of any non-salary benefits) and allowances payable under this section; and  | S. 17AA(4)(a)<br>amended by<br>No. 83/2008<br>s. 9(3).  |
| (b) premiums and other amounts payable under the <b>Accident Compensation (WorkCover Insurance) Act 1993</b> in respect of the associate judges; and   | S. 17AA(4)(b)<br>amended by<br>No. 24/2008<br>s. 55(2)(b).                                      |
| (c) payroll tax payable under the <b>Payroll Tax Act 2007</b> in respect of wages paid or payable to the associate judges; and   | S. 17AA(4)(c)<br>amended by<br>Nos 26/2007<br>s. 109, 24/2008<br>s. 55(2)(b).                   |
| (d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to the associate judges.   | S. 17AA(4)(d)<br>amended by<br>No. 24/2008<br>s. 55(2)(b).                                      |
| (5) If, before the commencement of section 9 of the <b>Salaries Legislation Amendment (Salary Sacrifice) Act 2008</b> (the <i>2008 Act</i> ), a master entered into an arrangement under which the master agreed to receive the whole or part of his | S. 17AA(5)<br>inserted by<br>No. 83/2008<br>s. 9(4).  |



s. 17B

or her total amount of salary as a master as non-salary benefits of an equivalent value, that arrangement, by virtue of this subsection, has and is deemed always to have had full effect according to its tenor as if it had been authorised under this section.

S. 17AA(6)  
inserted by  
No. 83/2008  
s. 9(4).

(6) On and after the commencement of section 9 of the 2008 Act, an arrangement referred to in subsection (5) may only be varied or revoked in accordance with subsection (2C).

S. 17AA(7)  
inserted by  
No. 83/2008  
s. 9(4).

(7) In subsection (2A) *non-salary benefits* has the same meaning as it has in clause 3(5) of Schedule 1A to the **Public Administration Act 2004**.

S. 17B  
(Heading)  
inserted by  
No. 23/2008  
s. 13(1),  
amended by  
No. 24/2008  
s. 56(1).

**17B Pension entitlements of associate judges, their partners and children**

S. 17B  
inserted by  
No. 64/1990  
s. 6.

S. 17B(1)  
amended by  
No. 24/2008  
s. 56(2)(a)(i).

(1) An associate judge who—

S. 17B(1)(a)  
substituted by  
No. 22/1995  
s. 26(1).

(a) has attained—  
(i) the age of 65 years; or

S. 17B(1)(a)(ii)  
amended by  
No. 24/2008  
s. 56(2)(a)(ii).

(ii) in the case of an associate judge who was appointed as a master before the commencement of section 26 of the **Judicial Remuneration Tribunal Act 1995**, the age of 60 years—

and has held office for at least 10 years; or

(aa) has held office for at least 20 years; or

S. 17B(1)(aa)  
inserted by  
No. 22/1995  
s. 26(1).

(b) was appointed while under the age of 60 and  
has become afflicted with a permanent  
incapacity that disables him or her from the  
due execution of the office—

is, on resignation or retirement, entitled to a  
pension payable fortnightly at the annual rate of  
60% of the annual salary for the time being  
applicable to his or her former office.

(1A) An associate judge who—

S. 17B(1A)  
inserted by  
No. 22/1995  
s. 26(2),  
amended by  
No. 24/2008  
s. 56(2)(b).

(a) had attained the age of 60 years when  
appointed as an associate judge; and

S. 17B(1A)(a)  
amended by  
No. 24/2008  
s. 56(2)(b)(ii).

(b) has attained the age of 70 years—

is, on resignation or retirement, entitled to a  
pension payable fortnightly at the proportion of  
the rate of the pension that would have been  
payable if he or she had held office for 10 years  
that is equal to the proportion of 10 years during  
which he or she held office as an associate judge.

(1B) An associate judge who—

S. 17B(1B)  
inserted by  
No. 22/1995  
s. 26(2),  
amended by  
No. 24/2008  
s. 56(2)(c)(i).

(a) had attained the age of 60 years when  
appointed as an associate judge; and

S. 17B(1B)(a)  
amended by  
No. 24/2008  
s. 56(2)(c)(ii).

**s. 17B**

(b) has become afflicted with a permanent incapacity that disables him or her from the due execution of the office—

is, on resignation or retirement, entitled to a pension payable fortnightly at the rate of the pension that would have been payable under subsection (1A) if he or she had held office until attaining the age of 70 years.

**S. 17B(2)**  
amended by  
Nos 23/2008  
s. 13(2)(a)(b),  
24/2008  
s. 56(2)(d).

(2) On the death of an associate judge, a former associate judge or a former master his or her partner is, until death or marriage or until the partner becomes the domestic partner of another person, entitled to a pension payable fortnightly at the annual rate of  $\frac{3}{8}$ ths of the annual salary for the time being applicable to the former office of the associate judge, former associate judge or the office of associate judge that is equivalent to the former office of the former master, as the case requires.

**S. 17B(3)**  
amended by  
Nos 23/2008  
s. 13(2)(a)(c),  
24/2008  
s. 56(2)(e).

(3) A pension is not payable under subsection (2) to the partner of an associate judge, a former associate judge or former master where the marriage took place or the domestic partnership was entered into after the associate judge's or former master's resignation or retirement.

**S. 17B(4)**  
amended by  
No. 24/2008  
s. 56(2)(f).

(4) On the death of an associate judge, a former associate judge or a former master in respect of whom no pension is payable under subsection (2) any eligible child of the associate judge, former associate judge or former master is entitled to a pension payable fortnightly at the annual rate set out in subsection (2) divided by 4 or the number of eligible children, whichever is the greater.

**S. 17B(5)**  
amended by  
Nos 23/2008  
s. 14, 24/2008  
s. 56(2)(g).

(5) An eligible child of an associate judge, a former associate judge or former master is a child, adopted child or stepchild of the associate judge,

former associate judge or former master or his or her partner—

- (a) who is under the age of 16; or
  - (b) who is over the age of 16 but under the age of 25 and receiving full-time education at a school, college or university.
- (6) A pension payable under subsection (4) shall be paid to such person or persons as the Attorney-General directs.
- (7) The right of a former master or former associate judge to a pension under this section—
- (a) ceases if he or she accepts appointment to a judicial office in or outside Victoria;
  - (b) is suspended while—
    - (i) he or she holds an office or place of profit under the Crown in right of the Commonwealth or of a State; or
    - (ii) he or she is engaged in legal practice in any State or Territory of the Commonwealth or is employed by a legal practitioner in connection with the practitioner's legal practice in any such State or Territory.
- (8) Subsection (7) applies unless the Governor in Council by Order otherwise determines in any particular case.
- (9) An associate judge retires for the purposes of this section only if he or she ceases to hold office in the circumstances described in section 17A(2)(d).
- (10) This section does not apply to or in relation to a master who resigned or retired before the commencement of section 6 of the **Courts (Amendment) Act 1990**.

S. 17B(7) amended by No. 24/2008 s. 56(2)(h).

S. 17B(7)(b)(ii) amended by No. 35/1996 s. 453(Sch. 1 item 15.6 (a)–(c)).

S. 17B(9) amended by No. 24/2008 s. 56(2)(l).

s. 17C

S. 17B(10A)  
inserted by  
No. 23/2008  
s. 15.

(10A) Subsections (7) to (21) of section 14 apply with such modifications as are necessary to and in respect of a pension under this section in the same circumstances and to the same extent as those subsections apply to and in respect of a pension under section 14.

S. 17B(11)  
amended by  
No. 19/2001  
s. 14.

(11) Pensions under this section and any payments of lump sums provided by the commutation of those pensions are payable out of the Consolidated Fund which is appropriated to the necessary extent.

S. 17B(12)  
inserted by  
No. 24/2008  
s. 56(3).

(12) For the purposes of this section, service as a master before the commencement of section 53 of the **Courts Legislation Amendment (Associate Judges) Act 2008** shall count as service as an associate judge.

S. 17B(13)  
inserted by  
No. 24/2008  
s. 56(3).

(13) In this section, *former master* means a master who resigned, retired or died before the commencement of section 56 of the **Courts Legislation Amendment (Associate Judges) Act 2008**.

S. 17C  
(Heading)  
amended by  
No. 24/2008  
s. 57(1).

**17C Election of associate judges to commute future pensions for payment of superannuation contributions surcharge**

S. 17C  
inserted by  
No. 19/2001  
s. 15.

S. 17C(1)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 57(2)(a).

(1) An associate judge may elect in writing to the Minister to have part of his or her future pension entitlement and that of his or her partner or eligible child, if any, under this Act commuted to provide a lump sum for the purposes of payment of the whole of the liability for the superannuation contributions surcharge arising because of the entitlement of the associate judge or his or her partner or eligible child to receive a pension under this Act.

- (2) An associate judge may by notice in writing to the Minister revoke his or her election under subsection (1).

S. 17C(2)  
amended by  
No. 24/2008  
s. 57(2)(b).

**17D Actuary's first calculation after election of associate judges to commute pensions**

S. 17D  
(Heading)  
amended by  
No. 24/2008  
s. 58(1).

S. 17D  
inserted by  
No. 19/2001  
s. 15.

- (1) If an election under section 17C is in operation, within 10 days after the day on which an associate judge resigns, retires or dies while in office, the Minister must—

S. 17D(1)  
amended by  
No. 24/2008  
s. 58(2)(a)(i).

- (a) cause an actuary to determine the extent to which the former associate judge's pension and any future entitlement of the associate judge's partner or eligible child to a pension upon the associate judge's death otherwise payable under this Act will be reduced subject to subsection (4) and taking into account the lump sum to be provided by the commutation of part of the associate judge's total pension entitlement and that of his or her partner or eligible child at the time at which the former associate judge became entitled to his or her pension for the purposes of payment of the whole of the liability for the superannuation contributions surcharge; and

S. 17D(1)(a)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(2)(a)(ii)(b).

- (b) notify the former associate judge or, if he or she has died, the former associate judge's partner or eligible child of the actuary's determination under subsection (1)(a).

S. 17D(1)(b)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(2)(a)(ii)(b).

**s. 17D**

**S. 17D(2)**  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(2)(b)(c).

(2) A former associate judge or, if he or she has died, the former associate judge's partner or eligible child may revoke the election under section 17C within 10 days after the Minister's notification under subsection (1)(b).

**S. 17D(3)**  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(2)(b).

(3) If an election under section 17C is in operation, the former associate judge's pension and any future entitlement of the former associate judge's partner or eligible child to a pension upon the associate judge's death otherwise payable from time to time under this Act must be reduced to the extent determined under subsection (1).

**S. 17D(4)(a)**  
amended by  
No. 24/2008  
s. 58(2)(b)(c).

(4) For the purposes of subsection (1)—

(a) the reduction of the former associate judge's pension must not exceed 15% of his or her total pension entitlement under the Act on the day on which the associate judge resigned or retired; and

**S. 17D(4)(b)**  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(2)(b)(c).

(b) the reduction of any future entitlement of the associate judge's partner or eligible child to a pension must not exceed 15% of an amount equal to the total pension entitlement of the associate judge's partner and eligible children on the day on which the associate judge resigned, retired or died while in office; and

(c) each reduction referred to in paragraph (a) and (b) must be a fixed percentage to be applied to the pension entitlement under the Act and, if paragraphs (a) and (b) both apply, the percentage must be the same; and

(d) each reduction must be applied from the entitlement day according to paragraph (a) or (b).

**17E Actuary's second calculation after election of associate judges to commute pensions and payment of lump sums**

S. 17E  
(Heading)  
amended by  
No. 24/2008  
s. 58(3).  
S. 17E  
inserted by  
No. 19/2001  
s. 15.

(1) If an election under section 17C is in operation, a former associate judge or, if he or she has died, the associate judge's partner or eligible child must, within 60 days after the day on which a superannuation contributions surcharge notice was issued in respect of the associate judge's pension or his or her partner's or eligible child's pension, lodge with the Minister—

S. 17E(1)  
amended by  
Nos 23/2008  
s. 13(3)(4),  
24/2008  
s. 58(4).

- (a) a notice that authorises the Minister to pay the lump sum that is equal to the superannuation contributions surcharge on behalf of the former associate judge or his or her partner or eligible child to the Commissioner of Taxation to be applied wholly towards payment of the superannuation contributions surcharge; and
- (b) a copy of the superannuation contributions surcharge notice.

S. 17E(1)(a)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(4)(b).

(2) Within 10 days after the day on which the Minister received the authorisation and a copy of the superannuation contributions surcharge notice under subsection (1), the Minister must cause an actuary—

- (a) to review the determination made under section 17D(1); and
- (b) subject to section 17D(4), make any necessary adjustments to the determination and to the pension payable to the former associate judge and to any future entitlement

S. 17E(2)(b)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 58(4).



s. 17F

of the former associate judge's partner or eligible child to a pension upon the associate judge's death.

- (3) If an election under section 17C is in operation and the Minister has received an authorisation under subsection (1), the Minister must cause the amount of the lump sum to be paid to the Commissioner of Taxation within the period stated in the superannuation contributions surcharge notice to be applied towards payment of the superannuation contributions surcharge.

S. 17F  
(Heading)  
amended by  
No. 24/2008  
s. 59(1).

S. 17F  
inserted by  
No. 19/2001  
s. 15.

**17F Election of former associate judges to commute pensions for payment of superannuation contributions surcharge**

S. 17F(1)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 59(2)(a).

- (1) If no election under section 17C is in operation, a former associate judge who is entitled to receive a pension under this Act may elect to have part of his or her pension and that of his or her partner or eligible child, if any, commuted to provide a lump sum for the purposes of payment of the whole or part of the liability for the superannuation contributions surcharge arising because of the entitlement of the former associate judge or his or her partner or eligible child to receive a pension under this Act.

- (2) An election under subsection (1) must—

S. 17F(2)(a)  
amended by  
Nos 23/2008  
s. 13(4),  
24/2008  
s. 59(2)(b).

- (a) be made in writing to the Minister within 60 days after the day on which a superannuation contributions surcharge notice is issued in respect of a former associate judge's pension or his or her partner's or eligible child's pension; and

- (b) specify the amount of the lump sum (not exceeding the superannuation contributions surcharge) to be provided by the commutation of the pensions; and
- (c) authorise the Minister to pay the lump sum on behalf of the former associate judge or his or her partner or eligible child to the Commissioner of Taxation to be applied wholly towards payment of the superannuation contributions surcharge; and
- (d) be accompanied by a copy of the superannuation contributions surcharge notice.

S. 17F(2)(c)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 59(2)(a).

**17G Actuary's calculation after former associate judges' election to commute pensions**

S. 17G  
(Heading)  
amended by  
No. 24/2008  
s. 60(1).

- (1) If an election under section 17F is in operation, the Minister must within 10 days after the day on which the Minister received the election—

S. 17G  
inserted by  
No. 19/2001  
s. 15.

- (a) cause an actuary to determine the extent to which a former associate judge's pension and any future entitlement of the partner or eligible child of the former associate judge to a pension upon the associate judge's death otherwise payable under this Act will be reduced subject to section 17H(3) and taking into account the specified amount of the lump sum to be provided by the commutation of the pensions; and
- (b) notify the former associate judge or, if he or she has died, the former associate judge's partner or eligible child of the actuary's determination under subsection (1)(a).

S. 17G(1)(a)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 60(2).

S. 17G(1)(b)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 60(2).

s. 17H

S. 17G(2)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 60(2).

- (2) A former associate judge or, if he or she has died, the former associate judge's partner or eligible child may revoke the election under section 17F within 10 days after the Minister's notification under subsection (1)(b).

S. 17H  
(Heading)  
amended by  
No. 24/2008  
s. 61(1).

**17H Payment and commutation of pensions of former associate judges**

S. 17H  
inserted by  
No. 19/2001  
s. 15.

- (1) If an election under section 17F is in operation, the Minister must cause the amount of the lump sum to be paid to the Commissioner of Taxation within the period stated in the superannuation contributions surcharge notice to be applied towards payment of the superannuation contributions surcharge.

S. 17H(2)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 61(2)(a).

- (2) The former associate judge's pension and any future entitlement of the associate judge's partner or eligible child to a pension upon the associate judge's death otherwise payable from time to time under this Act must be reduced to the extent determined under section 17G in consequence of the payment of the lump sum.

S. 17H(3)(a)  
amended by  
No. 24/2008  
s. 61(2).

- (3) For the purposes of section 17G—  
(a) the reduction of the former associate judge's pension must not exceed 15% of his or her total pension entitlement under the Act on the day on which the associate judge resigned or retired; and

S. 17H(3)(b)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 61(2).

- (b) the reduction of any future entitlement of the associate judge's partner or eligible child to a pension must not exceed 15% of an amount equal to the total pension entitlement of the associate judge's partner and eligible children on the day on which the associate judge resigned or retired; and

- (c) each reduction referred to in paragraph (a) and (b) must be a fixed percentage to be applied to the pension entitlement under the Act and, if paragraphs (a) and (b) both apply, the percentage must be the same; and
- (d) the reduction must be applied from the day of payment of the lump sum under subsection (1).

**17I Election of associate judges' partners and eligible children to commute pensions for payment of superannuation contributions surcharge**

S. 17I  
(Heading)  
amended by  
Nos 23/2008  
s. 13(5),  
24/2008  
s. 62(1).  
S. 17I  
inserted by  
No. 19/2001  
s. 15,

- (1) If no election made under section 17C or 17F is in operation, a person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former associate judge may elect to have part of his or her pension commuted to provide a lump sum for the purposes of payment of the whole or part of the liability for the superannuation contributions surcharge arising because of the entitlement of the former associate judge to receive a pension under this Act or the entitlement of the deceased former associate judge's partner or eligible child to receive a pension under this Act.
- (2) An election under subsection (1) must—
  - (a) be made in writing to the Minister within 60 days after the day on which a superannuation contributions surcharge notice was issued in respect of the deceased former associate judge's pension or his or her partner's or eligible child's pension; and

S. 17I(1)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 62(2).

S. 17I(2)(a)  
amended by  
Nos 23/2008  
s. 13(4),  
24/2008  
s. 62(2)(b).

**s. 17J**

S. 17(2)(c)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 62(2)(a).

- (b) specify the amount of the lump sum (not exceeding the superannuation contributions surcharge) to be provided by the commutation of the pension; and
- (c) authorise the Minister to pay the lump sum on behalf of the person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former associate judge to the Commissioner of Taxation to be applied wholly towards payment of the superannuation contributions surcharge; and
- (d) be accompanied by a copy of the superannuation contributions surcharge notice.

S. 17J  
(Heading)  
amended by  
Nos 23/2008  
s. 13(5),  
24/2008  
s. 63(1).  
S. 17J  
inserted by  
No. 19/2001  
s. 15.

**17J Actuary's calculation of reduction of pensions of associate judges' partners and eligible children**

- (1) If an election is made under section 17I, the Minister must within 10 days after the day on which the Minister received the election—

S. 17J(1)(a)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 63(2).

- (a) cause an actuary to determine the extent to which the pension of a person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former associate judge otherwise payable under this Act will be reduced subject to section 17K(3) and taking into account the specified amount of the lump sum to be provided by the commutation of the pension; and
- (b) notify the person of the actuary's determination under subsection (1)(a).

- (2) A person who is entitled to receive a pension under this Act as the partner or eligible child of a deceased former associate judge may revoke his or her election under section 17I within 10 days after the Minister's notification under subsection (1)(b).

S. 17J(2)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 63(2).

**17K Payment and commutation of pensions of former associate judges' partners and eligible children**

S. 17K  
(Heading)  
amended by  
Nos 23/2008

- (1) If an election under section 17I is in operation, the Minister must cause the amount of the lump sum to be paid to the Commissioner of Taxation within the period stated in the superannuation contributions surcharge notice to be applied towards payment of the superannuation contributions surcharge.

s. 13(5),  
24/2008  
s. 64(1).

S. 17K  
inserted by  
No. 19/2001  
s. 15.

- (2) On payment of the lump sum, the pension of a person entitled to receive a pension as the partner or eligible child of the deceased former associate judge otherwise payable from time to time under this Act must be reduced to the extent determined under section 17J.

S. 17K(2)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 64(2)(a).

- (3) For the purposes of section 17J—

- (a) the reduction of any future entitlement of the associate judge's partner or eligible child to a pension must not exceed 15% of—

S. 17K(3)(a)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 64(2)(b).

- (i) an amount equal to the total pension entitlement of the associate judge and his or her partner and eligible children on the day on which the associate judge resigned or retired; or

S. 17K(3)(a)(i)  
amended by  
Nos 23/2008  
s. 13(3),  
24/2008  
s. 64(2)(a).

- (ii) in the case of the associate judge's death while in office, an amount equal to his or her partner's and eligible children's total pension entitlement on

S. 17K(3)(a)(ii)  
amended by  
Nos 23/2008  
s. 13(4),  
24/2008  
s. 64(2).

s. 17L

the day on which the associate judge died; and

- (b) the reduction must be a fixed percentage to be applied to the pension entitlement under the Act; and
- (c) the reduction must be applied from the day of payment of the lump sum under subsection (1).

Pt 1 Div. 3B  
(Heading and  
ss 17L–17V)  
inserted by  
No. 34/2010  
s. 33.

### **Division 3B—Judicial registrars**

S. 17L  
inserted by  
No. 34/2010  
s. 33.

#### **17L Assignment of duties**

- (1) The Chief Judge may assign duties to a judicial registrar.
- (2) A judicial registrar must—
  - (a) carry out the duties that are from time to time assigned to him or her by the Chief Judge; and
  - (b) subject to section 4(1C), perform the duties and exercise the powers and authorities imposed or conferred on him or her by or under this Act or any other Act or by the Rules.

S. 17M  
inserted by  
No. 34/2010  
s. 33.

#### **17M Guidelines relating to the appointment of judicial registrars**

- (1) The Chief Judge, in consultation with the Attorney-General may—
  - (a) prepare guidelines relating to the appointment of judicial registrars of the court; and

- (b) from time to time amend or revoke any guidelines prepared under paragraph (a).
- (2) As soon as practicable after preparing, amending or revoking any guidelines under subsection (1), the Chief Judge must cause a copy of the guidelines or the amendment or notice of the revocation (as the case requires) to be given to the Attorney-General.

**17N Recommendation for appointment of judicial registrars**

S. 17N  
inserted by  
No. 34/2010  
s. 33.

- (1) The Chief Judge may, at any time, recommend to the Attorney-General that a judicial registrar, or more than one judicial registrar, of the court be appointed by the Governor in Council.
- (2) In making a recommendation under subsection (1), the Chief Judge must have regard to any guidelines in force under section 17M(1).
- (3) On receiving a recommendation under subsection (1), the Attorney-General may recommend to the Governor in Council that a judicial registrar, or more than one judicial registrar, of the court be appointed under section 17O.

**17O Appointment by Governor in Council**

S. 17O  
inserted by  
No. 34/2010  
s. 33.

- (1) On the recommendation of the Attorney-General under section 17N, the Governor in Council may appoint a person as a judicial registrar of the court for the period, not exceeding 5 years, specified in his or her instrument of appointment.
- (2) A person is not eligible for appointment as a judicial registrar unless he or she—
- (a) is either—
- (i) an Australian lawyer; or
- (ii) enrolled as a legal practitioner of the High Court of Australia; and



- (b) has been admitted to legal practice in Victoria or another State or a Territory, or has been enrolled as a legal practitioner of the High Court of Australia, for not less than 5 years.
- (3) A judicial registrar may be appointed on a full-time or part-time basis.
- (4) A judicial registrar, although not appointed on a part-time basis, may, by agreement in writing entered into with the Chief Judge, undertake the duties of a judicial registrar on a part-time basis.
- (5) A judicial registrar is eligible for re-appointment.
- (6) The **Public Administration Act 2004** does not apply to a judicial registrar in respect of the office of judicial registrar.

S. 17P  
inserted by  
No. 34/2010  
s. 33.

**17P Remuneration and terms and conditions of appointment**

- (1) A judicial registrar is entitled to receive the remuneration and allowances that are fixed in respect of him or her from time to time by the Governor in Council.
- (2) The remuneration of a judicial registrar is to be paid out of the Consolidated Fund, which is hereby appropriated to the necessary extent.
- (3) Except with the approval of the Attorney-General, a judicial registrar must not—
  - (a) engage in legal practice; or
  - (b) undertake paid employment; or
  - (c) conduct a business, trade or profession of any kind.

- (4) A judicial registrar must disclose to the Chief Judge in writing any direct or indirect pecuniary interest that he or she has or acquires that could conflict with the proper performance of the duties of the office of judicial registrar.
- (5) Despite any provision to the contrary made by or under any other Act, a person who has held the office of judicial registrar is entitled to have his or her service in that office taken into account in computing the period of service which entitles public officials (within the meaning of the **Public Administration Act 2004**) to be granted long service leave or other leave entitlements, whether his or her service in the office of judicial registrar is before or after any period of service as such a public official.

**17Q Resignation from office**

A judicial registrar may resign from office by delivering to the Governor a signed letter of resignation.

S. 17Q  
inserted by  
No. 34/2010  
s. 33.

**17R Suspension from office**

- (1) The Chief Judge, with the approval of the Attorney-General, may suspend a judicial registrar from office, if the Chief Judge believes that there may be grounds for removal of the judicial registrar from office.
- (2) A judicial registrar who is suspended under this section remains entitled to his or her remuneration and allowances as judicial registrar during the period of suspension.

S. 17R  
inserted by  
No. 34/2010  
s. 33.

**17S Investigation of judicial registrar and report**

- (1) As soon as practicable after the Chief Judge suspends a judicial registrar from office under section 17R, the Attorney-General must appoint a person nominated by the Chief Judge to undertake

S. 17S  
inserted by  
No. 34/2010  
s. 33.

---

an investigation into the judicial registrar's conduct.

- (2) A person appointed under subsection (1) must—
  - (a) investigate the judicial registrar's conduct; and
  - (b) report to the Attorney-General on the investigation; and
  - (c) give a copy of the report to the judicial registrar and the Chief Judge.
- (3) A report under subsection (2)(b) may include a recommendation that the judicial registrar be removed from office.
- (4) After receiving a report under subsection (2)(b) recommending removal, the Attorney-General, after consulting the Chief Judge, may recommend to the Governor in Council that the judicial registrar be removed from office.
- (5) The person who conducted the investigation and the Attorney-General may only recommend that a judicial registrar be removed on the ground of proved misbehaviour or incapacity.
- (6) The Attorney-General must not make a recommendation under subsection (4) unless the judicial registrar has been given a reasonable opportunity to make written and oral submissions to the person who conducted the investigation and the Chief Judge.
- (7) In making a recommendation under subsection (4), the Attorney-General is entitled to rely on any findings contained in the report under subsection (2).

- 
- (8) If the Attorney-General decides not to make a recommendation under subsection (4)—
- (a) the Attorney-General must inform the Chief Judge as soon as practicable after receiving the report under subsection (2)(b); and
  - (b) the Chief Judge must lift the suspension.

**17T Removal of judicial registrar from office**

The Governor in Council may remove a judicial registrar from office on the recommendation of the Attorney-General under section 17S but not otherwise.

S. 17T  
inserted by  
No. 34/2010  
s. 33.

**17U Performance of duties by judicial registrar**

- (1) A judicial registrar—
- (a) must not hear, or continue to hear, a proceeding that the judicial registrar considers for any reason inappropriate for hearing and determination by the court constituted by a judicial registrar; and
  - (b) must make appropriate arrangements for the proceeding to be heard and determined by the court constituted by a judge or an associate judge.
- (2) Subject to this Act and the Rules, a judicial registrar, in the performance of his or her duties as judicial registrar, is not subject to the direction or control of any person or body.
- (3) In the performance of his or her duties as a judicial registrar, a judicial registrar has the same protection and immunity as a Judge of the Supreme Court has in the performance of his or her duties as a Judge.

S. 17U  
inserted by  
No. 34/2010  
s. 33.

s. 17V

S. 17V  
inserted by  
No. 34/2010  
s. 33.

### 17V Review of decisions of judicial registrar

- (1) The court constituted by a judge or an associate judge may direct that the hearing and determination of a proceeding by the court constituted by a judicial registrar be reviewed by the court constituted by a judge or an associate judge.
- (2) A direction may be given under subsection (1)—
  - (a) at the request of a party to the proceeding; or
  - (b) by the court of its own motion.
- (3) A review under this section is to be conducted as a hearing de novo.

### Division 4—Registrars

## 18 Appointment of registrar and deputy registrars<sup>2</sup>

No. 6117 s. 18.  
S. 18  
amended by  
No. 8625 s. 6,  
substituted by  
No. 19/1989  
s. 7(l).

S. 18(1)  
amended by  
Nos 46/1998  
s. 7(Sch. 1),  
108/2004  
s. 117(1)  
(Sch. 3  
item 47).

- (1) For the purposes of this Act and to assist in the administration of the court there are, subject to the **Public Administration Act 2004**, to be appointed—
  - (a) a registrar; and
  - (b) as many deputy registrars as are necessary.
- (2) At every place at which the court sits there shall be one or more deputy registrars.
- (3) The registrar and deputy registrars have the duties, powers and functions provided by this or any other Act, the regulations and the Rules.
- (4) The registrar and deputy registrars in the exercise of their powers and performance of their functions are subject to the directions of the Chief Judge.

- (5) A deputy registrar may, subject to this Act, the regulations and the Rules and to any directions of the registrar, exercise any of the powers or perform any of the functions of the registrar.
- (6) A deputy registrar while acting under an appointment under subsection (1) has the same powers and privileges and is subject to the same provisions, duties and penalties for misbehaviour as if he or she were the registrar of the court.

### 19 Protection of registrars

- (1) A registrar has, in the performance of his or her duties as a registrar in good faith, the same protection and immunity as a judge has in the performance of his or her duties as a judge.
- (2) A deputy registrar has, in the performance of his or her duties as a deputy registrar in good faith, the same protection and immunity as a judge has in the performance of his or her duties as a judge.

\* \* \* \* \*

S. 19  
repealed by  
No. 19/1989  
s. 7(m),  
new s. 19  
inserted by  
No. 64/2010  
s. 62.

S. 20  
amended by  
Nos 6951  
s. 3(a)–(d),  
9007 s. 2(b),  
repealed by  
No. 19/1989  
s. 7(m).

### 21 Duties of registrar

- (1) The registrar or deputy registrar of the court at each place at which the court is held shall—
- (a) issue all summonses warrants and other process;

No. 6117 s. 21.

S. 21(1)  
amended by  
No. 19/1989  
s. 7(n)(i).

S. 21(1)(a)  
amended by  
Nos 7651  
s. 2(1)(Sch. 1  
Pt 2 item 2(a)),  
7705 s. 9(d)(i).

County Court Act 1958  
6230/1958

Part I—Court Judges Officers Counsel and Practitioners

**s. 21**

**S. 21(1)(b)**  
amended by  
Nos 7705  
s. 9(d)(i),  
19/1989  
s. 7(n)(ii).

(b) make lists of all proceedings for hearing further hearing or rehearing;

(c) make entries in the register of all verdicts orders and judgments of the court at that place;

**S. 21(1)(ca)**  
inserted by  
No. 7705  
s. 9(d)(i).

(ca) arraign prisoners;

**S. 21(1)(cb)**  
inserted by  
No. 7705  
s. 9(d)(i).

(cb) enter appeals;

**S. 21(1)(cc)**  
inserted by  
No. 7705  
s. 9(d)(i).

(cc) file convictions orders and other records and perform any acts necessary to give effect to the judgments or orders of the court;

**S. 21(1)(cd)**  
inserted by  
No. 19/1989  
s. 7(n)(iii).

(cd) file and authenticate judgments and orders and perform any acts necessary to give effect to the judgments or orders of the court in any civil proceeding;

(d) discharge all other duties and powers imposed or conferred on them under or in pursuance of this Act or according to the rules and keep an account of all proceedings of the court at that place;

(e) take charge of and keep an account of all court fees and fines payable or paid into court at that place and of all moneys paid into and out of court at that place; and

(f) enter an account of all such fees fines and moneys in such manner and form and in such books or otherwise as are prescribed by the rules.

- (2) Such entries in the said register books and documents respectively, or a copy thereof respectively bearing the seal of the court and signed and certified as a true copy by the registrar or deputy registrar of the court at that place shall at all times be admitted in all courts and places whatsoever as evidence of such entries and of the proceedings referred to by such entry entries or documents and of the regularity of such proceedings without any further proof.

S. 21(2)  
amended by  
Nos 7705  
s. 9(d)(ii),  
19/1989  
s. 7(o)(i)(ii).

**21A Moneys held under Act may be invested**

S. 21A  
inserted by  
No. 10013 s. 3.

- (1) Except as otherwise expressly provided, where any moneys are held by the registrar or other officer of the court—
- (a) under the Trust Account;
  - (b) under the Appeal Bail Account;
  - (c) under the Trial Bail Account; or
  - (d) under the Witness Account—

of the Court, the whole or any part of the moneys, whether already in a state of investment or not, may be invested in one or more of the following ways:

\* \* \* \* \*

S. 21A(1)(e)  
repealed by  
No. 11/2001  
s. 3(Sch.  
item 17).

\* \* \* \* \*

S. 21A(1)(f)  
repealed by  
No. 18/1994  
s. 66(Sch. 2  
item 4).

- (g) In any manner in which trust funds may be invested by a trustee under the **Trustee Act 1958**; or
- (h) On deposit in a fund prescribed by regulations made under this Act.



- (2) Notwithstanding anything to the contrary in any other Act or rule of law, all income derived from the investment of moneys pursuant to subsection (1) shall be paid into the Consolidated Fund.

S. 6117 s. 22.

## 22 Power to registrar to administer oaths

S. 22(1)  
amended by  
Nos 7705  
s. 9(e),  
19/1989  
s. 7(p)(i)–(iii).

- (1) The registrar and every deputy registrar may take and administer affidavits depositions declarations oaths and affirmations in relation to any proceeding.

S. 22(2)  
amended by  
Nos 19/1989  
s. 7(q)(i)–(iv),  
57/1989  
s. 3(Sch.  
item 37.2),  
24/2008 s. 65,  
69/2009  
s. 54(Sch. Pt 2  
item 16).

- (2) Any affidavit to be used in the court shall and may be sworn before the registrar or a deputy registrar, or before any judge of the Supreme Court or any Associate Judge of the Supreme Court, or before any judge or associate judge of the court or before any person authorised under the **Evidence (Miscellaneous Provisions) Act 1958**.

Pt 1 Div. 4A  
(Heading and  
s. 22A)  
inserted by  
No. 51/2008  
s. 7.

## Division 4A—Aboriginal elders and respected persons

S. 22A  
inserted by  
No. 51/2008  
s. 7.

### 22A Appointment of Aboriginal elders or respected persons

- (1) The Secretary, by instrument, may appoint a person who is a member of the Aboriginal community as an Aboriginal elder or respected person for the purpose of performing functions in relation to the Koori Court Division as set out in this Act.
- (2) An Aboriginal elder or respected person holds office for the period, and on the terms and conditions, determined by the Secretary and specified in the instrument of appointment.

- (3) An Aboriginal elder or respected person may resign from office by writing signed by him or her and delivered to the Secretary.

### Division 5—Bailiffs

#### 23 Appointment of bailiffs and assistant bailiffs of County Court

No. 6117 s. 23.

- (1) The Governor in Council may appoint a person other than a sheriff's officer to be a bailiff of the County Court at any place.

S. 23(1) amended by No. 46/1998 s. 7(Sch. 1), substituted by No. 9/2009 s. 72(1).

**Note**

In relation to sheriff's officers as bailiffs, see section 12 of the **Sheriff Act 2009**.

- (1A) A person appointed under subsection (1) need not be an employee in the public service.

S. 23(1A) inserted by No. 9/2009 s. 72(1).

- (2) Without affecting the operation of subsection (1) of this section the member of the police force who is for the time being in charge of any police station specified for the time being for the purposes of this section by Order of the Governor in Council published in the Government Gazette shall be a bailiff of the County Court at the place or places so specified for the purposes of this section.

- (3) Any such bailiff may from time to time in writing appoint any member of the police force to assist such bailiff.

- (4) The bailiff at Melbourne may from time to time in writing appoint to assist him any person who is a process server.

S. 23(4) inserted by No. 7705 s. 6, amended by No. 1/2010 s. 103.

s. 24

S. 23(5)  
inserted by  
No. 9/2009  
s. 72(2).

(5) In this section—

*sheriff's officer* has the same meaning as in the  
**Sheriff Act 2009.**

No. 6117 s. 24.

## 24 Bailiff's duty

S. 24(1)  
amended by  
No. 19/1989  
s. 7(r)(i)(ii).

(1) The said bailiffs or one of them shall if required by the court attend every sitting of the court at any place for which they are appointed, unless when their absence is allowed for reasonable cause by the court; and shall by themselves or by the officers appointed to assist them as aforesaid serve all such summonses issued out of the court at that place as are delivered to them for service, and shall execute all the writs and other process issued out of the court at that place.

S. 24(2)  
amended by  
No. 19/1989  
s. 7(s).

(2) The said bailiffs and officers shall in the execution of their duties conform to the rules, and subject thereunto to the order and direction of the court.

S. 24(3)  
amended by  
No. 8883 s. 3.

(3) The said bailiffs shall receive from the registrar and retain for their own use for and in respect of such duties as have been performed by them or by the officers appointed to assist them all fees and sums of money allowed as hereinafter mentioned in the name of fees payable to the bailiff, out of which they shall provide for the execution of the duties for which such fees are allowed and for the payment of the officers appointed to assist them.

(4) Every such bailiff shall be responsible for all the acts and defaults of himself and of the officers appointed to assist him in like manner as the sheriff of Victoria is responsible for the acts and defaults of himself and his officers.

- (5) In respect of every place at which the court is held under this Act and at which the fees allowed to be taken by the bailiffs appear to be more than sufficient, the Governor in Council may declare that a certain specified part only of their fees shall be paid to them respectively; and in that case and so long as such order is in force, the amount of the residue of such fees shall be accounted for paid and applied in the same manner as all other fees payable to such registrar.

**Division 6—Registrars, bailiffs and other officers**

**25 Penalty on officers for corrupt practices**

The registrar and every deputy registrar, bailiff or other officer employed in putting this Act or any of the powers thereof in execution, who wilfully and corruptly exacts takes or accepts any fee or reward whatsoever, other than and except such fees as are appointed and allowed respectively as aforesaid for or on account of anything done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall on conviction thereof forfeit and pay any sum not exceeding 5 penalty units, and shall be for ever incapable of serving or being employed under this Act in any office of profit or emolument.

No. 6117 s. 25.  
S. 25  
amended by  
Nos 9554  
s. 2(2)(Sch. 2  
item 46),  
19/1989 s. 7(t).

**26 Registrar and bailiff to be distinct persons and not to act as legal practitioner**

- (1) No registrar or deputy registrar or partner of any such registrar or deputy registrar or person in the service or employment of any such registrar or deputy registrar or of his partner shall act as bailiff and no bailiff or partner of any such bailiff or

No. 6117 s. 26.  
S. 26  
(Heading)  
inserted by  
No. 18/2005  
s. 18(Sch. 1  
item 25.4).

S. 26(1)  
amended by  
No. 19/1989  
s. 7(u).

s. 27

person in the service or employment of any such bailiff or of his partner shall act as registrar or deputy registrar; and no officer of the court shall either by himself or by his partner be directly or indirectly engaged as counsel practitioner or agent for any party in any proceedings in the court.

S. 26(2)  
amended by  
Nos 9554  
s. 2(2)(Sch. 2  
item 47),  
19/1989  
s. 7(v)(i)–(iii).

- (2) Every person who being a registrar or deputy registrar of the court or the partner of any such registrar or deputy registrar or a person in the service or employment of any such registrar or deputy registrar or of his partner accepts the office of bailiff of the court, or who being a bailiff of the court or the partner of any such bailiff or a person in the service or employment of any such bailiff or of his partner accepts the office of registrar or deputy registrar in the execution of this Act, and also every officer of the court who is by himself or his partner or in any way directly or indirectly concerned as counsel practitioner or agent for any party in any proceeding in the court, shall for every such offence forfeit and pay the sum of 5 penalty units with full costs of that proceeding to any person who sues for the same by proceeding in the Supreme Court.

No. 6117 s. 27.  
S. 27  
amended by  
No. 19/1989  
s. 7(w).

## 27 Registrar and bailiff to give security

Every registrar, deputy registrar and bailiff of the court who receives any moneys in the execution of his duty shall give security for such sum and in such manner and form as the Governor in Council from time to time directs for the due performance of their several offices, and for the due accounting for and payment of all moneys received by them under this Act or which they may become liable to pay for any misbehaviour in their office.

**Division 7—Court fees**

**28 Court fees payable by suitors**

- (1) There shall be payable on every civil proceeding in the court to the registrar or a deputy registrar of the court at or for the place where the proceeding is to be heard such fees as are allowed in the manner next hereinafter mentioned and none other; and a table of such fees shall be put up in some conspicuous place in the court house and in the registrar's or the deputy registrar's office; and the fees on every proceeding shall be paid in the first instance by the party on whose behalf such proceeding is to be had on or before such proceeding; and the fees upon execution or commitment, excluding fees payable to the bailiff, shall be paid into court before or at the time of the issue of the writ or other process.
- (2) The Governor in Council may direct what amount of fees and in respect of what steps taken process issued or duties performed fees shall be taken in the court in such manner as he thinks fit, and lessen or increase the same.
- (3) Such fees may be regulated by way of percentage on the amount of the demand; and the Governor in Council may appoint instead of all or any of the fees which may from time to time be payable as aforesaid other fees by way of percentage or otherwise to be payable on such proceedings under this Act as the Governor in Council may direct.
- (4) The registrar or a deputy registrar at or for the place where a civil proceeding is to be heard may, having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay a fee on that proceeding, waive payment of that fee if, in his or her opinion, the payment of that fee by that person would cause him or her

No. 6117 s. 28.

S. 28(1)  
amended by  
Nos 6951 s. 4,  
7705 s. 9(f),  
19/1989  
s. 7(x)(i)(ii),  
64/1996  
s. 14(1).

S. 28(4)  
inserted by  
No. 9/1995  
s. 11(2).

s. 28A

financial hardship and, in that case, that fee is not payable.

S. 28(5)  
inserted by  
No. 64/1996  
s. 14(2).

- (5) Subsection (4) does not apply to fees payable to the bailiff.

S. 28A  
inserted by  
No. 7705  
s. 9(g),  
amended by  
Nos 10262  
s. 4, 12/1989  
s. 4(1)(Sch. 2  
item 18.1),  
19/1989  
s. 7(y),  
46/1998  
s. 7(Sch. 1),  
29/2010  
s. 54(2).

## 28A Exemption from court fees

The registrar and every deputy registrar of the court shall demand receive and take for the use of Her Majesty the several fees fixed by the rules to be paid in respect of proceedings in the criminal jurisdiction and the appellate jurisdiction of the court but except where otherwise expressly provided no such fee shall be demanded received or taken from any member of the police force acting in the execution of his duty or from any person acting for and by the authority of Her Majesty or of the Secretary to the Department of Health or of any municipal council in the discharge of any right or duty imposed by any Act relating to the public health.

Pt 1 Div. 8  
(Heading)  
amended by  
No. 19/1989  
s. 7(z).

## Division 8—Proceedings against officers

No. 6117 s. 29.

## 29 Proceedings against registrars etc.

S. 29(1)  
amended by  
No. 19/1989  
s. 7(za)(i)–(iv).

- (1) In every proceeding against the registrar or a deputy registrar for anything done in obedience to any warrant or other process issued by him under this Act, it shall be a sufficient justification for the registrar or deputy registrar to plead the judgment or order of the court and the warrant or other process thereon, without alleging or setting forth the previous proceedings or that the cause of action for which such judgment was recovered was cognizable by or sufficient evidence in support of such plea.

- (2) In any such case proof of the matters so pleaded shall be sufficient evidence in support of such plea.

**30 Proceedings against bailiffs etc.**

No. 6117 s. 30.

- (1) In every proceeding against a bailiff or any officer servant or agent of such bailiff or against the keeper of any gaol for anything done by such bailiff or by his command or authority or by such keeper in obedience to any warrant or other process issued under this Act, it shall be sufficient justification for such bailiff officer servant or agent or for such keeper to plead that he acted under such warrant or other process alone, without alleging that the same was made and issued within the jurisdiction of the court and without alleging or setting forth the judgment or previous proceedings in the same manner as the sheriff can and may justify under any writ issued out of the Supreme Court.

S. 30(1)  
amended by  
No. 19/1989  
s. 7(zb).

- (2) In any such case proof of the matters so pleaded shall be sufficient evidence in support of such plea.

\* \* \* \* \*

S. 31  
repealed by  
No. 19/1989  
s. 7(zc).

**32 Protection to bailiffs etc.**

No. 6117 s. 32.

- (1) All members of the police force shall aid in the execution of every writ warrant or other process of execution under the provisions of this Act.
- (2) If any officer or bailiff is assaulted while in the execution of his duty, or if any rescue is made or attempted to be made of any goods seized under process of the court, every person so offending shall be liable to a penalty of not more than 5 penalty units to be recovered upon proof of such offence by order of the Magistrates' Court.

S. 32(2)  
amended by  
Nos 9554  
s. 2(2)(Sch. 2  
item 48),  
19/1989  
s. 7(zd),  
57/1989  
s. 3(Sch.  
item 37.3).



s. 33

S. 32(3)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.11).

- (3) Such fine shall be directed to be paid either forthwith or within a certain time to be specified in such order, and if the same is not paid in the time specified therein the offender shall be imprisoned for a term of not more than three calendar months unless such fine is sooner paid.

Pt 1 Div. 9  
(Heading)  
amended by  
No. 35/1996  
s. 453(Sch. 1  
item 15.7).

### **Division 9—Legal practitioners—costs**

No. 6117 s. 33.  
S. 33  
amended by  
Nos 7705  
s. 9(h),  
19/1989  
s. 7(ze),  
35/1996  
s. 453(Sch. 1  
item 15.8  
(a)(b)).

### **33 Fees to legal practitioners to be fixed by the judges**

The fees to be allowed to legal practitioners practising in the court and the expenses to be paid to witnesses shall be those fixed by the scale in the rules under this Act but the costs of employing practitioners either by the plaintiff or defendant shall not be allowed as costs in the cause in any civil case in which the amount recovered does not exceed \$20 unless the court allows the same.

No. 6117 s. 34.

### **34 Power to recover excessive fees**

S. 34(1)  
amended by  
Nos 19/1989  
s. 7(zf)(i)–(v),  
35/1996  
s. 453(Sch. 1  
item 15.9  
(a)(i)–(iv)).

- (1) The court may, upon the application of any person who has employed any legal practitioner in a proceeding, issue a summons requiring such practitioner to appear before the court at a time and place named in the summons, and at such time and place upon the appearance of such practitioner or upon proof of the service of such summons the court shall proceed to assess the charges and fees of such practitioner for the proceeding.

County Court Act 1958  
6230/1958

Part I—Court Judges Officers Counsel and Practitioners

s. 34

- 
- (2) If in the opinion of the court the charges or fees of such practitioner are unreasonable, it may, unless there is an enforceable costs agreement under the **Legal Profession Act 2004** to the contrary between the parties, order such practitioner to repay any part of such charges or fees.

**S. 34(2)**  
amended by  
Nos 19/1989  
s. 7(zg),  
35/1996  
s. 453(Sch. 1  
item 15.9  
(b)(i)(ii)),  
18/2005  
s. 18(Sch. 1  
item 25.5).

---

**PART II—JURISDICTION**

**Division 1—Sittings of the court**

Pt 2 Div. 1  
(Heading)  
amended by  
No. 7705  
s. 9(j).

No. 6117 s. 35.

**35 Court of record**

S. 35(1)  
repealed by  
No. 19/1989  
s. 8(a).

\* \* \* \* \*

(2) The County Court shall be a court of record.

S. 35(3)(4)  
repealed by  
No. 19/1989  
s. 8(a).

\* \* \* \* \*

S. 35(5)  
amended by  
S.R. No.  
371/1973  
reg. 2,  
repealed by  
No. 19/1989  
s. 8(a).

\* \* \* \* \*

No. 6117 s. 36.

**36 Proceedings arising outside Victoria**

S. 36  
amended by  
Nos 19/1989  
s. 8(b)(i)(ii),  
68/2009  
s. 97(Sch.  
item 35.12).

The court shall have power to hear and determine every proceeding in respect of which jurisdiction is conferred upon it by this or any other Act, notwithstanding that part of the cause of action arose outside Victoria, provided that a material part of the cause of action arose within Victoria, and shall have power to hear and determine every such proceeding notwithstanding that the whole cause of action arose outside Victoria, provided that the defendant or accused resided within Victoria at the time of the service of the originating process upon such defendant or accused.

---

**Division 1A—Criminal jurisdiction**

Pt 2 Div. 1A  
(Heading)  
inserted by  
No. 7705 s. 7.

**36A Criminal jurisdiction of County Court**

S. 36A  
inserted by  
No. 7705 s. 7.

(1) The court shall have jurisdiction to inquire into hear and determine and adjudge all indictable offences (whether committed before or after the commencement of the **County Court (Jurisdiction) Act 1968**) save and except the offences following (that is to say)—

- (a) treason and misprision of treason;
- (b) the offences referred to in sections 3, 10, 11 and 13 of the **Crimes Act 1958** and the offence referred to in section 130 of that Act of burglariously breaking and entering a dwelling house and assaulting with intent to murder a person therein;
- (c) attempts to murder;

\* \* \* \* \*

S. 36A(1)(d)  
repealed by  
No. 8132 s. 2.

- (e) unlawful combinations and conspiracies to commit any offence which when committed by one person is triable only in the Supreme Court;
- (f) offences which by any Act cannot be prosecuted or tried in the County Court.

County Court Act 1958  
6230/1958  
Part II—Jurisdiction

**s. 36A**

- 
- (2) Subject to subsection (1) and unless otherwise expressly provided the County Court shall have jurisdiction and powers with respect to indictable offences and the trial thereof as fully and amply to all intents and purposes as the Supreme Court of Victoria in like matters and the general principles of practice and procedure observed for the time being in the Supreme Court of Victoria with respect to the trial or determination of indictable offences shall be adopted and applied in the County Court.
- (3) The court has the same jurisdiction, and may exercise the same powers and authority, to grant an injunction in a criminal proceeding restraining a person from publishing any material or doing any other thing to ensure the fair and proper conduct of the proceeding as the Supreme Court has and may exercise in respect of a criminal proceeding in the Supreme Court.
- (4) The power of the court referred to in subsection (3) is exercisable by making an order, whether interlocutory or final, either unconditionally or on such terms and conditions as the court thinks just.
- (5) Nothing in subsection (3) limits subsection (2) or section 54 or 80.

**S. 36A(3)**  
inserted by  
No. 10/1999  
s. 27.

**S. 36A(4)**  
inserted by  
No. 10/1999  
s. 27.

**S. 36A(5)**  
inserted by  
No. 10/1999  
s. 27.

---

**Division 2—Civil jurisdiction**

Pt 2 Div. 2  
(Heading and  
ss 37, 38)  
amended by  
Nos 7420  
s. 2(a)(b), 8263  
s. 2(a)–(c),  
8291 s. 28(3),  
9308 s. 2(a)(b),  
9771 s. 31 (as  
amended by  
No. 16/1986  
s. 11(6)), 9957  
s. 3(a)(b),  
substituted as  
Pt 2 Div. 2  
(Heading and  
ss 37–39) by  
No. 16/1986  
s. 11(4).

**37 Extent of jurisdiction**

No. 6117 s. 37.  
S. 37  
substituted by  
No. 16/1986  
s. 11(4).

(1) The court has jurisdiction to hear and determine—

S. 37(1)(a)  
amended by  
No. 19/1989  
s. 8(c)(i).

(a) all applications, claims, disputes and civil proceedings regardless of the type of relief sought or the subject-matter as are not by this or any other Act excluded from its jurisdiction; and

S. 37(1)(b)  
amended by  
Nos 12/1989  
s. 4(1)(Sch. 2  
items 18.2,  
18.3), 19/1989  
s. 8(c)(ii).

(b) all civil proceedings against municipal councils in respect of loss or injury sustained by persons or property by reason of accidents, upon or while using any highway, street, road, bridge, ferry or jetty or upon or in or while using any paths or any land or building under the control of a municipal council; and

S. 37(1)(c)  
amended by  
No. 19/1989  
s. 8(c)(iii).

(c) all other civil proceedings in respect of which jurisdiction is given to the court by this or any other Act.

County Court Act 1958  
6230/1958  
Part II—Jurisdiction

s. 37

S. 37(2)  
amended by  
No. 19/1989  
s. 8(d)(i)–(iii).

(2) The court does not have jurisdiction to hear or determine any application, claim, dispute or other civil proceeding (other than proceedings to which subsection (1)(b) or (c) applies)—

S. 37(2)(a)(b)  
repealed by  
No. 50/2006  
s. 3(2).

\* \* \* \* \*

S. 37(2)(c)  
amended by  
No. 19/1989  
s. 15(a).

(c) brought by application for a prerogative writ or an order in the nature of a prerogative writ; or

(d) brought upon a judgment of the Supreme Court.

S. 37(3)  
inserted by  
No. 107/1986  
s. 6(2),  
amended by  
No. 19/1989  
s. 8(e)(i).

(3) If a verdict is returned for or a judgment is given for an amount greater than the amount sought to be recovered in the civil proceeding by the plaintiff—

(a) the court must find and record the amount of the verdict or judgment; and

(b) the plaintiff may recover the full amount of the verdict or judgment or, if the full amount is liable to be reduced in accordance with Part V of the **Wrongs Act 1958**, the amount to which the full amount is so liable to be reduced, even if that full amount or reduced amount is greater than the amount sought to be recovered.

S. 37(3)(b)  
amended by  
No. 19/1989  
s. 8(e)(ii).

County Court Act 1958  
6230/1958  
Part II—Jurisdiction

s. 39

\* \* \* \* \*

No. 6117 s. 38.  
S. 38  
substituted by  
No. 16/1986  
s. 11(4),  
amended by  
Nos 12/1989  
s. 4(1)(Sch. 2  
item 18.4),  
19/1989  
s. 8(f)(i)–(iii),  
22/2006 s. 20,  
repealed by  
No. 50/2006  
s. 3(3).

**39 Whether proceedings within jurisdictional limit**

No. 6117 s. 39.  
S. 39  
amended by  
No. 9957  
s. 3(c),  
substituted by  
No. 16/1986  
s. 11(4),  
amended by  
No. 107/1986  
s. 6(1)(a).

\* \* \* \* \*

S. 39(1)  
repealed by  
No. 50/2006  
s. 3(4).

(2) If a civil proceeding is wholly or partly beyond  
the jurisdiction of the court, the court may—

S. 39(2)  
inserted by  
No. 107/1986  
s. 6(1)(b),  
substituted by  
No. 85/1987  
s. 3(b),  
amended by  
No. 19/1989  
s. 8(g)(i).

(a) amend the originating process for the  
purpose of bringing the proceeding within  
jurisdiction; or

S. 39(2)(a)  
amended by  
No. 19/1989  
s. 8(g)(ii)(iii).



s. 39A

S. 39(2)(b)  
amended by  
Nos 19/1989  
s. 8(g)(iii),  
43/1991  
s. 37(a).

(b) order that the proceeding be stayed pending the making of an application under Part 3 of the **Courts (Case Transfer) Act 1991**; or

S. 39(2)(c)  
amended by  
No. 19/1989  
s. 8(g)(iii).

(c) order that the proceeding be struck out and award costs as if the court had jurisdiction and the proceeding were dismissed.

S. 39(3)  
inserted by  
No. 107/1986  
s. 6(1)(b),  
substituted by  
No. 85/1987  
s. 3(b).

(3) If—

S. 39(3)(a)  
amended by  
Nos 19/1989  
s. 8(h)(i),  
43/1991  
s. 37(b).

(a) under subsection (2)(b) the court orders that a civil proceeding be stayed pending the making of an application under Part 3 of the **Courts (Case Transfer) Act 1991**; and

S. 39(3)(b)  
amended by  
No. 19/1989  
s. 8(h)(ii).

(b) within a reasonable time after the making of that order the proceeding has not been transferred to the Supreme Court—

the court may exercise the power conferred by subsection (2)(c).

S. 39A  
inserted by  
No. 19/1989  
s. 15(b).

**39A Agreements by next friend etc. on behalf of infants**

S. 39A(1)  
amended by  
No. 64/1990  
s. 18(1)(a).

(1) If a minor is or appears to be entitled to recover damages for bodily injury (other than injury caused by or arising out of the use of a motor car within the meaning of the **Transport Accident Act 1986**) and any parent or guardian or next friend of the minor or any person standing in loco parentis to the minor or the State Trust (as the case may be) believes that the amount of compensation in respect of the bodily injury offered or tendered by or on behalf of the person

---

or body from whom or which the damages are claimed is reasonable and adequate having regard to—

- (a) the bodily injury sustained; and
- (b) the probability or otherwise of the minor succeeding in any proceeding in recovering damages against the person or body from whom or which the damages are claimed—

the parent or guardian or next friend or person standing in loco parentis or the State Trust (as the case may be) is entitled in the name and on behalf of the minor to enter into an agreement in writing with the person or body from whom or which the damages are claimed to accept the amount of compensation so offered or tendered.

(2) Every agreement entered into in accordance with subsection (1)—

- (a) may be filed with the registrar or deputy registrar of the County Court at the sittings nearest or most convenient to the place of residence of the minor; and
- (b) if so filed must be accompanied by an affidavit made by the parent, guardian, next friend, person standing in loco parentis, a director of the State Trust (as the case may be) who entered into the agreement verifying the facts on which the agreement is based and be supported by any affidavit required by the rules or by the County Court.

S. 39A(2)(b)  
amended by  
No. 64/1990  
s. 18(1)(b).

(3) As soon as practicable after the filing of an agreement under subsection (2) the registrar or deputy registrar must submit it to the County Court.

- 
- (4) An agreement entered into in accordance with subsection (1) does not have any force or effect until it has been filed and approved by order of the County Court in accordance with this section and any agreement so filed which is with the consent of the parties approved in an amended form is deemed to have been filed in the amended form.
- (5) Every order under this section must among other things make any provision that the court thinks proper for—
- (a) the payment into court of the whole or part of the compensation agreed to be paid; and
  - (b) the allotment, investment, payment out of court or other application of the compensation (including money arising from investment) for the benefit of the minor but the court may at any subsequent time (whether by variation of a former order or not) make any further order with respect to the allotment, investment, payment out of court or other application of the compensation (including money arising from investment) that appears to the court to be proper having regard to the then existing circumstances.
- (6) An order under this section must not be made unless the court is satisfied with respect to—
- (a) the right of the parent, guardian, next friend or other person standing in loco parentis or of the State Trust to act for the minor; and
  - (b) the reasonableness and adequacy in the circumstances of the amount of compensation; and
  - (c) the genuineness of the agreement.

S. 39A(6)(a)  
amended by  
No. 64/1990  
s. 18(1)(c).

- 
- (7) When an order approving an agreement is made, the order—
- (a) must be recorded without fee by the registrar or deputy registrar in a special register; and
  - (b) is enforceable in all respects as if the order were a judgment of the County Court.
- (8) When an order approving an agreement has been complied with by the person or body from whom or which the damages are claimed, that person or body is released and discharged from all liability to the minor in respect of the bodily injury.
- (9) This section is not limited by any other provision of this Act.
- (10) Nothing in this section applies in any case where a proceeding has been commenced in a court by or on behalf of the minor for the recovery of damages for bodily injury.

**Division 2A—Administration of children's funds**

Pt 2 Div. 2A  
(Heading and  
s. 39B)  
inserted by  
No. 15/1998  
s. 8.

**39B Court orders relating to administration of children's funds**

S. 39B  
inserted by  
No. 15/1998  
s. 8.

- (1) If in any civil proceedings before the court it is adjudged or ordered that money be paid to a child (whether or not that child is a party to a cause or matter) the money—
- (a) is to be paid into court; and
  - (b) unless the court otherwise orders, is to be paid out to an administrator specified by the court.

- 
- (2) If any money, not being money to which subsection (3) applies—
- (a) is paid into court—
    - (i) before the commencement of this section; or
    - (ii) after the commencement of this section in accordance with a judgment or order entered or made before the commencement of this section; and
  - (b) the money is being held in court on behalf of a child—

the court may by order direct that the money be paid out to an administrator specified in the order.

- (3) If the court adjudges or orders that property (whether real or personal) be delivered up or transferred to a child (whether or not that child is a party to a cause or matter), the court—
- (a) may order that the property be delivered up or transferred to an administrator specified in the order; and
  - (b) may give any directions for the service of the order on the administrator as it thinks fit.
- (4) If an order under subsection (3) is served on State Trustees within the meaning of the **State Trustees (State Owned Company) Act 1994**, State Trustees must accept delivery or transfer of the property to which the order relates and the acceptance of the property is a sufficient discharge to the person delivering or transferring the property.
- (5) A copy of any order made under this section must be given by the administrator to the Tribunal within the meaning of the **Guardianship and Administration Act 1986** and the Public Advocate appointed under that Act.

S. 39B(5)  
amended by  
No. 30/2004  
s. 13(1)(2).

- (6) An order of the court under this section that money be paid out to an administrator has effect as if it were an administration order under the **Guardianship and Administration Act 1986** and, subject to the order of the court, the administrator has all the powers and duties of an administrator referred to in Divisions 3 and 3A of Part 5 of that Act.

S. 39B(6)  
amended by  
No. 30/2004  
s. 13(1).

**Division 2B—Transfer and payment of money to the Supreme Court for person under disability**

Pt 2 Div. 2B  
(Heading and  
s. 39C)  
inserted by  
No. 30/2004  
s. 5.

**39C Money held in court for person under disability**

S. 39C  
inserted by  
No. 30/2004  
s. 5.

- (1) In this section, *person under disability* means—
- (a) a minor; or
  - (b) a person who is incapable by reason of injury, disease, senility, illness or physical or mental infirmity of managing his or her affairs in relation to the proceeding.
- (2) Unless the court orders otherwise, money held in court on behalf of a person under disability immediately before the commencement of section 5 of the **Courts Legislation (Funds in Court) Act 2004** must be paid into the Supreme Court by payment to the Senior Master of the Supreme Court to be held in that Court on behalf of the person under disability.
- (3) Unless the court orders otherwise, in any proceeding in the court in which it is adjudged or ordered that money be paid for a person under disability, that money must be paid into the Supreme Court (in full compliance with the judgment or order of the court) by payment to the Senior Master of the Supreme Court to be held in that Court on behalf of the person under disability.

- (4) Money paid to the Senior Master under subsection (2) or (3) is to be held by the Senior Master as if an order had been made in a proceeding in the Supreme Court that the money be paid into court to be held on behalf of the person under disability and as if that money had been paid into court in accordance with that order.
- (5) The Senior Master has the same powers with respect to loss occasioned by delay as the Senior Master would have if an order referred to in subsection (4) had been made.

Note to  
s. 39C(5)  
amended by  
No. 24/2008  
s. 90(1).

**Note**

Rule 79.06 of Chapter I of the Rules of the Supreme Court provides the Senior Master with powers with respect to loss occasioned by delay.

- (6) Nothing in this section affects the operation of section 39B of this Act or section 66 of the **Guardianship and Administration Act 1986**.

Pt 2 Div. 3  
(Heading and  
s. 39)  
substituted as  
Pt 2 Div. 3  
(Heading and  
s. 40) by  
No. 16/1986  
s. 11(4).

**Division 3—Officers of the court**

No. 6117 s. 40.  
S. 40  
substituted by  
No. 16/1986  
s. 11(4),  
amended by  
Nos 110/1986  
s. 140(2),  
19/1989  
s. 8(i)(i)(ii),  
34/2010 s. 32.

**40 Officers of the court**

In all civil proceedings referred to in Division 2, judicial registrars, the registrar, deputy registrars, bailiffs and other officers of the court shall in all such civil proceedings discharge any duties which an officer of the Supreme Court can discharge either under the order of that court or under the practice thereof, and all officers of the court shall in discharging such duties conform to the rules.

County Court Act 1958  
6230/1958  
Part II—Jurisdiction

s. 46

\* \* \* \* \*

Pt 2 Div. 4  
(Heading and  
s. 40)  
repealed by  
No. 16/1986  
s. 11(4), new  
Pt 2 Div. 4  
(Heading and  
ss 41, 42)  
inserted by  
No. 50/2009  
s. 9,  
amended by  
No. 34/2010  
s. 34,  
repealed by  
No. 47/2010  
s. 84(1).

\* \* \* \* \*

Pt 2 Div. 5  
(Heading and  
ss 41–45)  
amended by  
Nos 9075  
s. 5(1), 9427  
ss 5(Sch. 4  
item 3),  
6(1)(Sch. 5  
item 35), 9957  
s. 3(d)(e),  
repealed by  
No. 16/1986  
s. 11(4).

**Division 6—Arbitration, mediation, and reference for  
inquiry**

Pt 2 Div. 6  
(Heading)  
inserted by  
No. 50/2009  
s. 10.

**46 Arbitration by agreement**

No. 6117 s. 46.

- (1) If the plaintiff and the defendant in any civil proceeding agree to refer to arbitration the subject of such civil proceeding or such subject and all or any other matters in dispute between the parties, whether such other matters are within the jurisdiction of the court or not, and notify such agreement to the court in writing signed by themselves or their practitioners naming one or two persons as arbitrators, such agreement shall be filed by the registrar, and the court shall order

S. 46(1)  
amended by  
No. 19/1989  
s. 8(j)(i)–(iii).



such reference and on such terms as to costs and fees to arbitrators as may be reasonable.

S. 46(2)  
amended by  
No. 19/1989  
s. 8(k).

- (2) The arbitrators where two are named shall have power in the event of their disagreement to choose an umpire, and the award of such arbitrator or arbitrators or umpire shall unless set aside be binding final and conclusive on both parties; and judgment shall be entered for the plaintiff or defendant in accordance therewith whether the court is sitting or not, and such reference shall not be revocable by either party thereto except by leave of the court.

S. 46(3)  
amended by  
No. 19/1989  
s. 8(l).

- (3) The court may enlarge the time for making such award, or may with the consent of both parties revoke the reference or order another reference to be made in manner aforesaid.

S. 46(4)  
amended by  
No. 19/1989  
s. 8(m)(i)–(iv).

- (4) The court may, if it thinks fit, on application to it at the first sitting held after the expiration of one week after the entry of such award, set aside any such award so given as aforesaid, or may refer such award back to the arbitrator or arbitrators or umpire.

No. 6117 s. 47.

#### 47 Arbitration

S. 47  
(Heading)  
inserted by  
No. 24/2008  
s. 66.

S. 47  
amended by  
No. 19/1989  
s. 8(n)(i)–(iv).

If the plaintiff and the defendant in any civil proceeding agree in writing to refer the subject of such civil proceeding or any other matters in dispute between the parties whether such other matters are within the jurisdiction of the court or not, and notify such agreement to the court, the court may if it thinks fit act as arbitrator, and shall make an award thereon upon which it shall cause to be entered up judgment in the court, with such costs as it thinks reasonable, and such award and the judgment thereon shall not be subject to question or appeal in any court whatever.

**47A Power to refer civil proceedings to mediation or arbitration**

Subject to and in accordance with the rules or the **Civil Procedure Act 2010**, the court may, with or without the consent of the parties, refer the whole or any part of a civil proceeding to mediation or arbitration.

S. 47A  
inserted by  
No. 64/1990  
s. 9(1),  
amended by  
No. 47/2010  
s. 84(2).

**47B Mediation<sup>3</sup>**

Where the Court refers a proceeding or any part of a proceeding to mediation, other than judicial resolution conference, unless all the parties who attend the mediation otherwise agree in writing, no evidence shall be admitted at the hearing of the proceeding of anything said or done by any person at the mediation.

S. 47B  
inserted by  
No. 64/1996  
s. 15,  
amended by  
No. 50/2009  
s. 8.

**48 Power to refer matters for inquiry and report**

No. 6117 s. 48.

- (1) Subject to the rules, the court may, in any civil proceeding refer the whole or any part of the proceeding to a special referee for inquiry and report, and may direct how such reference shall be conducted, and may remit any report for further inquiry and report, and on consideration of any report or further report the court may give such judgment or make such order in the proceeding as may be just, without prejudice to any right of appeal<sup>4</sup>.
- (2) The powers conferred by this section shall be in addition to the powers of referring to arbitration conferred by section forty-six of this Act.

S. 48(1)  
amended by  
Nos 7705  
s. 9(k),  
19/1989  
s. 8(o)(i)–(vi),  
64/1996 s. 16.

**48A Assessor**

- (1) The court may in any civil proceeding call in the assistance of one or more specially qualified assessors and hear the proceeding wholly or partially with their assistance but shall not be bound by their opinion or findings.

S. 48A  
inserted by  
No. 19/1989  
s. 15(c).

s. 48B

- (2) The court may determine the remuneration of the assessors.

S. 48B  
inserted by  
No. 19/1989  
s. 15(c).

#### 48B Opinion of legal practitioner

- (1) The court may require or receive the opinion of a legal practitioner for its assistance—
- (a) in the investigation of the title to any land with a view to an investment of money in the purchase or on mortgage of that land or with a view to a sale of that land; or
  - (b) in settling the draft of an instrument; or
  - (c) in such other cases as are directed by the Rules—

S. 48B(1)  
amended by  
No. 35/1996  
s. 453(Sch. 1  
item 15.10(a)).

but any party may object to the opinion and, if so, the question in dispute must be disposed of by the court.

- (2) The court may determine the fee of the legal practitioner and how it shall be borne and paid.

S. 48B(2)  
amended by  
No. 35/1996  
s. 453(Sch. 1  
item 15.10(b)).

#### 48C Protection of special referees, mediators and arbitrators

- (1) A special referee, mediator or arbitrator to whom a civil proceeding, part of a civil proceeding or question arising in a civil proceeding is referred under this Act and the Rules or under the **Civil Procedure Act 2010** has, in the performance of his or her duties in connection with the reference, the same protection and immunity as a judge of the Court has in the performance of his or her duties as a judge.

S. 48C  
inserted by  
No. 64/1990  
s. 10.

S. 48C(1)  
amended by  
No. 47/2010  
s. 85.

(2) Subsection (1) applies despite anything to the contrary in the **Commercial Arbitration Act 2011**.

S. 48C(2)  
amended by  
No. 50/2011  
s. 46(Sch.  
item 4).

#### **48D Interaction with Civil Procedure Act 2010**

The powers of the Court under this Division are in addition to, and do not derogate from, the powers of a court under Chapter 5 of the **Civil Procedure Act 2010**.

S. 48D  
inserted by  
No. 47/2010  
s. 86.

#### **Division 7—Power to grant relief**

##### **49 Power of court**

The court shall as regards any civil proceeding within its jurisdiction for the time being have power to grant, and shall grant such relief, redress, or remedy, or combination of remedies, either absolute or conditional, and shall have power to make any order that could be made in regard to any civil proceeding, and shall give such and the like effect to every ground of defence or counter-claim, equitable or legal, in as full and ample a manner as might and ought to be done in the like case by the Supreme Court.

No. 6117 s. 49.  
S. 49  
amended by  
Nos 110/1986  
s. 140(2),  
19/1989  
s. 8(p)(i)–(v).

##### **49A Attachment of earnings**

(1) Subject to and in accordance with the Rules, the court may make orders for the attachment of the salary wages or pension of any person.

S. 49A  
inserted by  
No. 8915  
s. 3(2) (as  
amended by  
No. 9059  
s. 2(1)(Sch.  
item 49)).

S. 49A(1)  
amended by  
No. 19/1989  
s. 8(q).

\* \* \* \* \*

S. 49A(2)  
repealed by  
No. 19/1989  
s. 8(r).

- (3) Any person who dismisses an employé or injures him in his employment or alters his position to his prejudice by reason of the circumstances that an attachment order has been made in relation to the earnings of that employé or that the employé is required to make payments under such an order may be dealt with in the manner authorized by section 53 for compelling obedience to or punishing disobedience of any judgment or order.

S. 49B  
inserted by  
No. 19/1989  
s. 15(d).

#### **49B Execution of instruments by order of court**

- (1) If a person fails or refuses to comply with a judgment or order directing that person to execute a document or indorse a negotiable instrument, the court may, on such terms and conditions as it considers just, order that the document be executed or that the instrument be indorsed by a person nominated by the court.
- (2) A document or instrument executed and indorsed under subsection (1) operates and is for all purposes available as if it had been executed or indorsed by the person originally directed to do so.

No. 6117 s. 50.  
S. 50  
amended by  
Nos 9019  
s. 2(1)(Sch.  
item 31),  
19/1989  
s. 15(e).

#### **50 Rules of law to apply to County Court**

The several rules of law enacted by Part 5 of the **Supreme Court Act 1986** shall unless express provision is otherwise made be in force and receive effect in the court, so far as the matters to which rules relate are respectively cognizable by it.

**51 Counter-claims in County Court and transfers therefrom**

No. 6117 s. 51.

(1) Where in any civil proceeding before the court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the court, such defence or counter-claim shall not affect the competence or the duty of the court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the court has jurisdiction to administer shall be given to the defendant upon any such counter-claim unless the parties or their respective legal practitioners have consented in writing to the court hearing and determining the counter-claim.

S. 51(1) amended by Nos 8263 s. 3, 19/1989 s. 8(s), 35/1996 s. 453(Sch. 1 item 15.11).

\* \* \* \* \*

S. 51(2) amended by Nos 110/1986 s. 140(2), 19/1989 s. 8(s), repealed by No. 43/1991 s. 37(c).

**52 Facts necessary to give jurisdiction need not appear upon any civil proceeding**

No. 6117 s. 52.

It shall not be necessary in any case that the facts necessary to give jurisdiction should appear by recital averment or otherwise upon any civil proceeding in or issuing out of the court.

S. 52 amended by No. 19/1989 s. 8(t).

**53 Mode of enforcing orders**

No. 6117 s. 53.

The court shall have and may exercise the same power and authority for compelling obedience to and for punishing disobedience of any judgment or order made by the court as the Supreme Court may exercise for compelling obedience to or punishing disobedience of any judgment or order.

S. 53 amended by Nos 110/1986 s. 140(2), 19/1989 s. 8(u)(f)(ii).

s. 53A

---

**Division 7A—Appellate jurisdiction**

Pt 2 Div. 7A  
(Heading and  
s. 53A)  
inserted by  
No. 7705 s. 8.

**53A Appellate jurisdiction of County Court**

Except where otherwise expressly provided the Court may try hear and determine all appeals referred to in sections 254, 257 and 260 of the **Criminal Procedure Act 2009** from convictions or orders of the Magistrates' Court and any appeal to the court by or under the provisions of any other Act and where in any Act any reference or application is made to the County Court the court shall have the same power of making orders with respect to costs and of enforcing those orders as it has in the case of appeals from convictions and orders of the Magistrates' Court.

Pt 2 Div. 7B  
(Heading)  
inserted by  
No. 7840  
s. 19(c),  
repealed by  
No. 74/2000  
s. 3(Sch. 1  
item 29).

\* \* \* \* \*

S. 53B  
inserted by  
No. 7840  
s. 19(c),  
amended by  
No. 19/1989  
s. 8(v),  
repealed by  
No. 92/1990  
s. 128(Sch. 1  
item 3).

\* \* \* \* \*

**Division 8—Contempt of court**

**54 Contempt of court**

The court has the same jurisdiction, and may exercise the same powers and authority, in respect of any contempt of the court as the Supreme Court has and may exercise in respect of any contempt of the Supreme Court.

S. 54 amended by No. 7705 s. 9(l), substituted by No. 8132 s. 3, amended by No. 9554 s. 2(2)(Sch. 2 item 49), substituted by No. 16/1986 s. 13, amended by No. 19/1989 s. 8(w)(i)(ii).

\* \* \* \* \*

S. 54A inserted by No. 8132 s. 3, amended by No. 9554 s. 2(2)(Sch. 2 item 50), repealed by No. 16/1986 s. 13.

\* \* \* \* \*

Pt 2 Div. 8A (Heading) inserted by No. 8883 s. 4(1), repealed by No. 19/1989 s. 8(x).

\* \* \* \* \*

S. 54B inserted by No. 8883 s. 4(1), repealed by No. 58/1986 s. 66(11).

**Division 9—Costs where no jurisdiction**

**55 Court may award costs where action or matter is struck out for want of jurisdiction**

Whenever an action or matter is commenced over which the court has no jurisdiction, the judge or associate judge, as the case requires, shall, unless

No. 6117 s. 55.  
S. 55 amended by No. 24/2008 s. 67.



County Court Act 1958  
6230/1958  
Part II—Jurisdiction

s. 55

the parties consent to the court having jurisdiction, order it to be struck out, and shall have power to award costs in the same manner, to the same extent, and recoverable in the same manner as if the court had jurisdiction there and the plaintiff had not appeared or had appeared and failed to prove his demand or complaint.

Pt 3 (Heading and s. 56) amended by Nos 6951 s. 5, 7705 s. 9(m), 9007 s. 2(c), 10117 s. 5(b), repealed by No. 19/1989 s. 9.

\* \* \* \* \*

Pt 4 (Heading and ss 57–64) amended by Nos 8263 s. 4(2), 16/1986 s. 11(5)(a)–(f), 85/1987 s. 3(c), 19/1989 s. 10(a)–(f), repealed by No. 43/1991 s. 37(d).

\* \* \* \* \*

---

**PART V—TRIAL OF CIVIL PROCEEDINGS**

Pt 5 (Heading)  
amended by  
Nos 7705  
s. 9(n),  
19/1989  
s. 11(a).

**65 Trial to be by judge**

No. 6117 s. 65.

In all civil proceedings the judge shall alone determine all questions as well of fact as of law, and his decision shall be the judgment of the court unless jurors are summoned as hereinafter provided.

S. 65  
amended by  
No. 19/1989  
s. 11(b).

**66 Judge may reserve his decision**

No. 6117 s. 66.

- (1) In any civil proceeding the judge may if he thinks fit reserve his decision on any question of fact or of law.
- (2) Where any such judge has so reserved his decision he may give the same at any continuation or adjournment of the court or at any subsequent holding thereof or he may draw up such decision in writing, and having duly signed the same forward it to the registrar of the court.
- (3) Upon the receipt of such decision in writing such registrar shall notify the parties or their respective counsel or practitioners of his intention to proceed at some convenient time by him specified to read the same in the court house at which the court is held or other convenient place, and he shall read the same accordingly, and thereupon such decision shall be of the same force and effect as if given by such judge in open court at the trial or hearing of such civil proceeding.

S. 66(1)  
amended by  
No. 19/1989  
s. 11(c).

S. 66(3)  
amended by  
Nos 9427  
s. 6(1)(Sch. 5  
item 36),  
19/1989  
s. 11(c).

s. 67

No. 6117 s. 67.

### **67 Trial may be by judge and jurors if required**

S. 67(1)  
amended by  
No. 19/1989  
ss 11(d)(i)–(iii),  
15(f).

(1) In all civil proceedings where the amount claimed or the value of the subject-matter exceeds \$5000 the plaintiff or defendant and in civil proceedings brought for the recovery of unliquidated damages the judge may require a jury to try the said proceeding.

S. 67(2)  
amended by  
No. 19/1989  
s. 11(e).

(2) In case of either party requiring such jury such party shall give the registrar of the court or leave at his office such notice thereof as is directed by the rules, and shall also give the other party such notice thereof as is directed by the Rules.

S. 67(3)  
repealed by  
No. 19/1989  
s. 11(f).

\* \* \* \* \*

No. 6117 s. 68.

### **68 Judge may direct trial by jurors**

S. 68(1)  
amended by  
No. 19/1989  
s. 11(g)(i)(ii).

(1) In any case where no demand of a jury has been made and the judge on application or otherwise thinks the civil proceeding proper to be tried by a jury, he shall direct the said proceeding to be placed in the list of jury cases, and it shall be tried by a jury accordingly.

S. 68(2)  
amended by  
No. 19/1989  
s. 11(h).

(2) When the judge of his own motion has required any civil proceeding to be tried by a jury, neither party shall be liable to pay the jury fees.

S. 68(3)  
repealed by  
No. 7651  
s. 2(1)(Sch. 1  
Pt 2 item 2(b)).

\* \* \* \* \*

\* \* \* \* \*

No. 6117 s. 69.  
S. 69  
amended by  
Nos 7651  
s. 2(1)(Sch. 1  
Pt 2 item 2(c)),  
19/1989  
s. 11(i),  
repealed by  
No. 53/2000  
s. 93.

## 70 Verdict of jurors<sup>5</sup>

(1) Subject to Part VI, where a jury has given a verdict, judgment must be entered in accordance with the verdict.

No. 6117 s. 70.  
S. 70  
substituted by  
Nos 7651  
s. 2(1)(Sch. 1  
Pt 2 item 2(d)),  
19/1989  
s. 11(j),  
amended by  
No. 64/1996  
s. 17(1).

(2) Despite subsection (1), the judge in a proceeding before a jury may, before the jury has given a verdict, grant leave to a party to apply for judgment other than in accordance with the verdict of the jury.

S. 70(2)  
inserted by  
No. 64/1996  
s. 17(2).

(3) If leave is granted under subsection (2), judgment may be entered other than in accordance with the verdict of the jury.

S. 70(3)  
inserted by  
No. 64/1996  
s. 17(2).

\* \* \* \* \*

S. 71  
repealed by  
No. 19/1989  
s. 11(k).

## 72 Jury may be had on re-hearing of County Court proceeding in Supreme Court

No. 6117 s. 72.

(1) When any party to any civil proceeding has appealed from any judgment or order to the Court of Appeal and a re-hearing of the proceeding has been directed before the Supreme Court constituted by a Judge of the Court, any of the parties thereto shall be entitled (if the case was in

S. 72(1)  
amended by  
Nos 110/1986  
s. 140(2),  
19/1989  
s. 11(i)(i)(ii),  
24/2008 s. 68.

County Court Act 1958  
6230/1958  
Part V—Trial of Civil Proceedings

s. 72

the County Court tried before a jury or if the Court of Appeal at the time of directing the re-hearing so orders) if the party so desires to have such re-hearing before the Supreme Court so constituted and a jury of six persons.

S. 72(2)  
amended by  
No. 110/1986  
s. 140(2).

(2) The plaintiff may have a jury by giving the prothonotary and the defendant a notice in writing to the effect that he requires a jury when giving notice of trial and by paying the proper jury fees.

S. 72(3)  
amended by  
No. 110/1986  
s. 140(2).

(3) The defendant may have a jury by giving the prothonotary and the plaintiff within four days after receiving notice of trial notice in writing to the effect that he requires a jury and by paying the proper jury fees.

**PART VI—JUDGMENT, NEW TRIAL AND APPEAL**

**73 Judgments to be final**

- (1) Every judgment and order made in any civil proceeding by the court, except as in this Act provided, shall be final and conclusive between the parties.

\* \* \* \* \*

No. 6117 s. 73.

S. 73(1)  
amended by  
Nos 7705  
s. 9(o),  
19/1989  
s. 12(a)(i)(ii).

S. 73(2)  
repealed by  
No. 19/1989  
s. 12(b).

- (3) The court may also in every case whatever, and as often as it thinks fit, order a new trial to be had upon such terms as it thinks reasonable, and may in the meantime stay proceedings.

S. 73(3)  
amended by  
No. 19/1989  
s. 12(c)(i)(ii).

- (3A) Subsection (3) does not apply so as to authorize the court to order a new trial in civil proceedings in which a jury has given a verdict.

S. 73(3A)  
inserted by  
No. 16/1986  
s. 16(b),  
amended by  
No. 19/1989  
s. 12(d).

- (4) Every judgment debt shall carry interest at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** from the time the judgment is entered or the order made or, in the case of costs to be assessed, from the assessment of those costs or such other day as the court orders, and the amount of the interest shall be stated in the body of and may be seized under a warrant of execution on such judgment.

S. 73(4)  
inserted by  
No. 9633 s. 7,  
amended by  
Nos 9967 s. 9,  
19/1989  
s. 12(e)(i)–(iii),  
35/1996  
s. 453(Sch. 1  
item 15.12  
(a)(b)).

No. 6117 s. 74.

S. 74(1)  
amended by  
Nos 16/1986  
s. 16(c),  
19/1989  
s. 12(f)(i)–(iii),  
109/1994  
s. 32(1),  
24/2007  
s. 11(1),  
24/2008 s. 69.

## 74 Appeal to the Court of Appeal<sup>6</sup>

(1) Subject to this section, any party to a civil proceeding who is dissatisfied with any judgment or order of the court constituted by a judge other than an associate judge may appeal from the same to the Court of Appeal, notwithstanding that the civil proceeding may have been brought in the County Court by consent as provided by this Act.

S. 74(2)  
amended by  
No. 6951 s. 6,  
substituted by  
No. 109/1994  
s. 32(2).

(2) An appeal by a party referred to in subsection (1)—

- (a) unless paragraph (b) applies, must be brought by notice served within 14 days after the day of the judgment or order of the court on all parties to the proceedings;
- (b) if the appeal is from a judgment or order refusing an application made without notice to a person, must be brought by notice filed in the Court of Appeal within 14 days after the judgment or order.

S. 74(2A)  
inserted by  
No. 109/1994  
s. 32(2).

(2A) The Court of Appeal may extend the time within which an appeal may be brought, whether or not the time has expired and whether or not an application for extension of time has been made.

S. 74(2B)  
inserted by  
No. 109/1994  
s. 32(2).

(2B) A notice of appeal—

- (a) must state whether the whole or part only and which part of the judgment or order the appellant is dissatisfied with; and
- (b) must state specifically and concisely the grounds of complaint and the judgment or order sought in place of that from which the appeal is brought.

S. 74(2C)  
inserted by  
No. 109/1994  
s. 32(2).

(2C) A notice of appeal may be amended at any time as the Court of Appeal thinks fit.

- 
- (2D) An appeal does not lie to the Court of Appeal from a judgment or order of the court in an interlocutory application, being a judgment or order made on or after the commencement of section 32 of the **Constitution (Court of Appeal) Act 1994**, except with the leave of the Court of Appeal.
- S. 74(2D) inserted by No. 109/1994 s. 32(2).
- (2E) An appeal does not lie to the Court of Appeal from a judgment or order of the court as to costs which are in the discretion of the court, being a judgment or order made on or after the commencement of section 11 of the **Courts Legislation Amendment (Judicial Education and Other Matters) Act 2007**, except with the leave of the Court of Appeal or of the judge constituting the court which gave the judgment or made the order.
- S. 74(2E) inserted by No. 24/2007 s. 11(2).
- (3) The Court of Appeal shall decide the matter of such appeal and shall have power to draw any inference of fact and shall on the hearing of such appeal make such order as is just, and may either dismiss such appeal or reverse or vary the judgment or order appealed from, and may direct the civil proceeding to be reheard before the Trial Division of the Supreme Court or the County Court, but shall not in any case unless the Court of Appeal otherwise specially directs remit the proceeding for rehearing before the court constituted by the judge before whom the same was originally heard, and may make such order with respect to the costs of the said appeal and of the proceeding in which the judgment or order has been given or made, as such court may think proper and such orders shall be final.
- S. 74(3) amended by Nos 110/1986 s. 140(2), 19/1989 s. 12(g)(i)–(iv), 109/1994 s. 32(3)(a)(b).



s. 75

S. 74(4)  
amended by  
No. 19/1989  
s. 12(h)(i)(ii),  
substituted by  
No. 24/2007  
s. 11(3).

(4) Except so far as the Court of Appeal or the County Court otherwise orders, an appeal from a judgment or order made on or after the commencement of section 11 of the **Courts Legislation Amendment (Judicial Education and Other Matters) Act 2007** does not operate as a stay of execution or of proceedings under the judgment or order.

S. 74(5)  
amended by  
No. 109/1994  
s. 32(3)(c).

(5) The rules for the time being in force with respect to ordering security for the costs of appeals from the Trial Division of the Supreme Court to the Court of Appeal shall, so far as practicable, apply to and govern appeals from the County Court.

(6) Nothing herein contained shall authorize any party to appeal against any decision of the court given upon any question as to the value of any real or personal property for the purpose of determining the question of the jurisdiction of the court under this Act nor to appeal against the decision of the court on the ground that the proceedings might or should have been taken at any other place of sitting of the County Court.

S. 74(7)  
amended by  
No. 19/1989  
s. 12(i).

(7) No appeal shall lie from any judgment or order of the court, if before it is pronounced the parties agree, in writing signed by themselves or their practitioners, that it shall be final.

S. 75  
amended by  
Nos 7705  
s. 9(p),  
16/1986  
s. 16(d),  
repealed by  
No. 110/1986  
s. 140(2),  
new s. 75  
inserted by  
No. 24/2008  
s. 70.

#### **75 Appeal from court constituted by associate judge to Trial Division of the Supreme Court**

(1) Subject to subsection (2), any party to a civil proceeding who is dissatisfied with any judgment or order of the court constituted by an associate judge may appeal from the same to the Trial Division of the Supreme Court, despite the civil proceeding having been brought in the County Court by consent as provided by this Act.

- (2) An appeal under this section—
- (a) is subject to leave by the associate judge constituting the court or to leave by the Trial Division of the Supreme Court; and
  - (b) is to be in accordance with the Rules of the Supreme Court.

**76 Court may reserve question for opinion of the Court of Appeal<sup>7</sup>**

No. 6117 s. 76.  
S. 76  
(Heading)  
inserted by  
No. 24/2008  
s. 90(2).

- (1) The court which tries or hears any civil proceeding may if it thinks fit reserve any question in the form of a special case for the opinion of the Court of Appeal, which opinion shall be given.

S. 76(1)  
amended by  
Nos 110/1986  
s. 140(2),  
19/1989  
s. 12(j)(i)–(iii),  
109/1994  
s. 32(3)(d).

- (2) In such case no judgment or order shall be given or made in respect of any matter on which such question has been reserved until such opinion has been given, and the Court of Appeal may make such order as it thinks proper as to the costs of and occasioned by the hearing of such case.

S. 76(2)  
amended by  
Nos 110/1986  
s. 140(2),  
109/1994  
s. 32(3)(e).

**77 Prerogative writ**

No judgment determination or other order given or made by the court in any civil proceeding before the court or pending in the court shall be removed by an application for an order in the nature of a prerogative writ, but every final decision by which the merits of the case may be concluded by judgment or order of the court given or made in any such proceeding before the court shall be subject to review by way of appeal as hereinbefore provided.

No. 6117 s. 77.  
S. 77  
amended by  
No. 19/1989  
s. 12(k)(i)–(vi).

Pt 7 (Heading)  
amended by  
No. 10013 s. 4.

**PART VII—RULES, FORMS, SCALES OF COSTS,  
REGULATIONS**

No. 6117 s. 78.

**78 Power to make rules of practice**

S. 78(1)  
amended by  
Nos 16/1986  
s. 9(2)(b),  
9/1995  
s. 8(5),  
14/2006 s. 10,  
24/2008  
s. 71(1)(a).

(1) A majority of the judges (other than judges who made an election under section 13A(1), or were appointed under section 13A(3A), before the commencement of section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005** or associate judges) for the time being may make rules for all or any of the following purposes—

S. 78(1)(aaa)  
inserted by  
No. 47/2010  
s. 87(a).

(aaa) furthering the overarching purpose set out in the **Civil Procedure Act 2010** and the conduct of civil proceedings in accordance with the principles set out in that Act, including the overarching obligations;

S. 78(1)(aab)  
inserted by  
No. 47/2010  
s. 87(a).

(aab) the conduct of civil proceedings and parties to civil proceedings generally, including, but not limited to, the imposition of limits, restrictions or conditions on any party in respect of any aspect of the conduct of civil proceedings;

S. 78(1)(aac)  
inserted by  
No. 47/2010  
s. 87(a).

(aac) case management;

S. 78(1)(aad)  
inserted by  
No. 47/2010  
s. 87(a).

(aad) any other matter or thing required or permitted by or under the **Civil Procedure Act 2010** to be dealt with by rules of court or otherwise necessary or required for the purposes of that Act;

(a) for regulating any matters relating to the costs of proceedings in the court, and for regulating and prescribing the scales of fees

- 
- and costs to be paid to counsel and practitioners;
- (aa) for prescribing forms and regulating service, procedure and costs with respect to a proceeding in the County Court under Part I of the **Instruments Act 1958**;
- (b) for regulating and prescribing the expenses to be paid to witnesses;
- (c) for regulating the keeping of all registers, books, entries and accounts by registrars and other officers;
- (ca) for regulating the investment of moneys under section 21A;
- (d) for regulating the sittings of the court;
- (e) for prescribing in what civil proceedings trials in the court are to be with a jury and in what proceedings they are to be without a jury;
- (ea) for prescribing the defences or other matters of which notice shall be given and regulating the manner of giving such notice;
- (f) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given in any proceedings or on any application in connexion with or at any stage of any proceedings;
- S. 78(1)(aa)  
inserted by  
No. 9947 s. 6,  
amended by  
No. 19/1989  
s. 13(a)(i).
- S. 78(1)(ca)  
inserted by  
No. 10013 s. 5.
- S. 78(1)(d)  
amended by  
No. 19/1989  
s. 13(a)(ii).
- S. 78(1)(e)  
amended by  
Nos 7705  
s. 9(q),  
19/1989  
s. 13(a)(iii).
- S. 78(1)(ea)  
inserted by  
No. 6951 s. 7.

County Court Act 1958  
6230/1958

Part VII—Rules, Forms, Scales of Costs, Regulations

s. 78

S. 78(1)(fa)  
inserted by  
No. 10117  
s. 4(2),  
amended by  
No. 19/1989  
s. 13(a)(iv),  
substituted by  
No. 24/2008  
s. 71(1)(b).

(fa) regulating the exercise by associate judges of the jurisdiction of the court;

S. 78(1)(fb)  
inserted by  
No. 10117  
s. 4(2),  
amended by  
No. 19/1989  
s. 13(a)(v),  
repealed by  
No. 24/2008  
s. 71(1)(c),  
new  
s. 78(1)(fb)  
inserted by  
No. 34/2010  
s. 35.

(fb) the prescription of the proceedings or class of proceedings which may be dealt with by the court constituted by a judicial registrar;

S. 78(1)(fc)  
inserted by  
No. 34/2010  
s. 35.

(fc) delegating to the judicial registrars all or any of the powers of the court specified by the Rules in relation to proceedings prescribed under paragraph (fb), including, but not limited to, the exercise by judicial registrars of the jurisdiction of the court other than the power to impose a sentence of imprisonment;

S. 78(1)(fd)  
inserted by  
No. 34/2010  
s. 35.

(fd) the transfer or referral of matters between the court constituted by a judicial registrar and the court constituted by a judge or an associate judge;

S. 78(1)(fe)  
inserted by  
No. 34/2010  
s. 35.

(fe) reviews of, and appeals from, the court constituted by a judicial registrar;

- 
- (g) for regulating the enforcement of judgments and orders;
- (h) for regulating and prescribing the form of cases upon appeal to the Supreme Court and the time within which such appeal shall be prosecuted;
- (ha) any matter dealt with in any Rules of Court in force on the day on which the **County Court (Amendment) Act 1989** comes into operation; S. 78(1)(ha) inserted by No. 19/1989 s. 13(a)(vi).
- (hb) the reinstatement of any proceeding, counterclaim or third-party claim that stands dismissed by operation of the rules— S. 78(1)(hb) inserted by No. 19/1989 s. 13(a)(vi).
- (i) whether the dismissal occurred before or after the commencement of the **County Court (Amendment) Act 1989**; and
- (ii) whether or not any relevant period of limitation has expired;
- (hc) the reference of any question arising in a proceeding to a special referee or officer of the court for decision or opinion; S. 78(1)(hc) inserted by No. 19/1989 s. 13(a)(vi).
- (hca) the reference of any civil proceeding or of any part of a civil proceeding to mediation or arbitration; S. 78(1)(hca) inserted by No. 64/1990 s. 9(2).
- (hcb) judicial resolution conferences, including, but not limited to the practice and procedure of the Court in relation to judicial resolution conferences; S. 78(1)(hcb) inserted by No. 50/2009 s. 11(a).
- (hcc) without limiting paragraphs (hca) and (hcb), the referral, direction or ordering of parties to a civil proceeding to any form of appropriate dispute resolution, whether with or without the consent of the parties; S. 78(1)(hcc) inserted by No. 47/2010 s. 87(b).

County Court Act 1958  
6230/1958

Part VII—Rules, Forms, Scales of Costs, Regulations

s. 78

- 
- S. 78(1)(hd)  
inserted by  
No. 19/1989  
s. 13(a)(vi).
- (hd) any of the matters set out in section 39A;
- S. 78(1)(he)  
inserted by  
No. 19/1989  
s. 13(a)(vi).
- (he) the payment of money into and out of the court in satisfaction of claims to which arbitration agreements apply and the investment of such money;
- S. 78(1)(hea)  
inserted by  
No. 51/2008  
s. 8(1).
- (hea) any matter relating to the practice and procedure of the Koori Court Division;
- S. 78(1)(heb)  
inserted by  
No. 51/2008  
s. 8(1).
- (heb) the transfer of proceedings to and from the Koori Court Division;
- S. 78(1)(hec)  
inserted by  
No. 51/2008  
s. 8(1),  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.14).
- (hec) the place at which an appeal under section 254 or 257 of the **Criminal Procedure Act 2009** may be heard by the Koori Court Division, being a place of the court in respect of which a notice has been published under section 4A; and
- S. 78(1)(hed)  
inserted by  
No. 51/2008  
s. 8(1),  
amended by  
No. 68/2009  
s. 97(Sch.  
item 35.15).
- (hed) the venues of the Magistrates' Court where sentences were imposed against which an appeal may be heard by the Koori Court Division.
- S. 78(1)(hff)  
inserted by  
No. 4/1997  
s. 6,  
amended by  
No. 69/2009  
s. 54(Sch. Pt 2  
item 16).
- (hff) requirements for the purposes of Part IIA of the **Evidence (Miscellaneous Provisions) Act 1958** for or with respect to<sup>8</sup>—
- (i) the form of audio visual or audio link;
  - (ii) the equipment, or class of equipment, used to establish the link;
  - (iii) the layout of cameras;
  - (iv) the standard, or speed, of transmission;

- (v) the quality of communication;
- (vi) any other matter relating to the link;
- (hg) applications to the court under Division 2 or 3 of Part IIA of the **Evidence (Miscellaneous Provisions) Act 1958**<sup>9</sup>;
- \* \* \* \* \*
- (i) for regulating and prescribing the pleading, practice and procedure of the court in any case within the cognizance of the court as to which rules of the Supreme Court have been or might lawfully be made for cases within the cognizance of the Supreme Court; and
- (j) generally for regulating and prescribing the pleading, practice and procedure of the court and the forms of proceedings therein, and any matters incidental to or relating to such pleading, practice or procedure.
- (2) A majority of the judges (other than judges who made an election under section 13A(1), or were appointed under section 13A(3A), before the commencement of section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005** or associate judges) for the time being may frame forms of proceedings in the court and may fix scales of fees costs and expenses to be paid to counsel practitioners and witnesses.

S. 78(1)(hg) inserted by No. 4/1997 s. 6, amended by No. 69/2009 s. 54(Sch. Pt 2 item 16).

S. 78(1)(hh) inserted by No. 8/2008 s. 10, repealed by No. 8/2008 s. 12(3).

S. 78(1)(i) amended by No. 10117 s. 5(c)(i).

S. 78(1)(j) amended by No. 10117 s. 5(c)(ii).

S. 78(2) amended by Nos 16/1986 s. 9(2)(b), 9/1995 s. 8(5), 14/2006 s. 10, 24/2008 s. 71(2).



County Court Act 1958  
6230/1958

Part VII—Rules, Forms, Scales of Costs, Regulations

s. 78

S. 78(4)  
amended by  
No. 16/1986  
s. 9(2)(b),  
substituted by  
No. 19/1989  
s. 13(b).

S. 78(5)  
substituted by  
No. 6886 s. 3,  
amended by  
No. 16/1986  
s. 16(e),  
substituted by  
No. 19/1989  
s. 13(b).

S. 78(6)  
substituted by  
No. 19/1989  
s. 13(b),  
repealed by  
No. 10/1999  
s. 31(6),  
new s. 78(6)  
inserted by  
No. 51/2008  
s. 8(2),  
amended by  
No. 50/2009  
s. 11(b).

- (3) The power given by this section shall extend and apply to all proceedings by or against the Crown.
- (4) The power to make Rules of Court extends to the repeal and amendment of rules even if they have been ratified, validated and approved by the Parliament.
- (5) In any case not provided for in this Act or by the Rules of Court, the general principles of practice and the rules observed in the Supreme Court may be adopted and applied to any proceeding with such modifications as may be necessary at the discretion of the court before which the proceeding is being or to be heard.
- (6) Without limiting subsection (1), a power conferred by subsection (1)(hcb), (1)(hea) or (1)(heb) to make rules may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
  - (b) so as to make, in respect of the cases in relation to which it is exercised—
    - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or

(ii) any such provision either unconditionally or subject to any specified condition.

(7) Without limiting subsection (1), rules made under subsection (1)(hcb), (1)(hea) or (1)(heb) may be made so as—

S. 78(7) substituted by No. 19/1989 s. 13(b), repealed by No. 10/1999 s. 31(6), new s. 78(7) inserted by No. 51/2008 s. 8(2), amended by No. 50/2009 s. 11(c).

(a) to require a matter affected by the rules to be approved by or to the satisfaction of a specified court official or a specified class of court official; and

(b) to confer a discretionary authority or impose a duty on a specified person or a specified class of person; and

(c) to provide in a specified case or class of case for the exemption of proceedings or a class of proceeding from any of the provisions of the rules, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

#### 78A Costs

S. 78A inserted by No. 16/1986 s. 14.

(1) The costs of and incidental to all proceedings are in the discretion of the Court and the Court may determine by whom and to what extent the costs are to be paid.

##### Note

See section 17D(1)(b) to (d) of the **Supreme Court Act 1986**.

Note to s. 78A(1) inserted by No. 78/2008 s. 15(1).

(2) In the due exercise of the discretion conferred by subsection (1), in any proceedings before the Court, the Court may order a legal practitioner to pay the costs of the proceedings or a portion of the costs.

s. 79A

S. 78A(3)  
inserted by  
No. 78/2008  
s. 15(2).

- (3) The Court may order that the costs of, and incidental to, a proceeding in the Court be assessed, settled, taxed or reviewed by the Costs Court.

**Note**

See section 146 of the **Supreme Court Act 1986** which deals with transitional matters relating to the Costs Court.

S. 79  
amended by  
No. 6886  
s. 3 (as  
amended by  
No. 6961 s. 2),  
repealed by  
No. 64/1996  
s. 18.

\* \* \* \* \*

S. 79A  
inserted by  
No. 10013 s. 6,  
amended by  
No. 19/1989  
s. 13(c).

**79A Regulations**

The Governor in Council may make regulations for or with respect to prescribing a fund for the purposes of section 21A(1)(h).

**PART VIII—MISCELLANEOUS**

**80 Power to close proceedings to the public**

- (1) The court may in the circumstances mentioned in section 80AA—
  - (a) order that the whole or any part of a proceeding be heard in closed court; or
  - (b) order that only persons or classes of persons specified by it may be present during the whole or any part of a proceeding; or
  - (c) make an order prohibiting the publication of a report of the whole or any part of a proceeding or of any information derived from a proceeding.
- (2) This section applies to any proceeding, whether civil or criminal.
- (3) If an order has been made under this section the court must cause a copy of it to be posted on a door of the court house or in another conspicuous place where notices are usually posted at the court house.
- (4) A person must not contravene an order made and posted under this section.

No. 6117 s. 80.  
S 80  
amended by  
Nos 7705  
s. 9(r), 9554  
s. 2(2)(Sch. 2  
item 51),  
19/1989  
s. 14(a)(i)–  
(vi)(b)(c),  
substituted by  
No. 10/1999  
s. 28(1).

Penalty: 1000 penalty units or imprisonment for 3 months.

**80AA Circumstances in which order may be made under section 80**

S. 80AA  
inserted by  
No. 10/1999  
s. 28(1).

The court may make an order under section 80 if in its opinion it is necessary to do so in order not to—

- (a) endanger the national or international security of Australia; or
- (b) prejudice the administration of justice; or

s. 80A

S. 80AA(e)  
substituted by  
No. 68/2009  
s. 97(Sch.  
item 35.16),  
amended by  
No. 30/2010  
s. 80(1).

S. 80AA(f)  
substituted by  
No. 30/2010  
s. 80(2).

S. 80A  
inserted by  
No. 9639 s. 2.

- (c) endanger the physical safety of any person;  
or
- (d) offend public decency or morality; or
- (e) cause undue distress or embarrassment to the complainant in a proceeding that relates, wholly or partly, to a charge for a sexual offence within the meaning of the **Criminal Procedure Act 2009**; or
- (f) cause undue distress or embarrassment to a witness under examination in a proceeding that relates, wholly or partly, to a charge for a sexual offence.

**80A Publishing particulars of issued summonses an offence**

Any person who, in the course of a business of publishing information with respect to debtors, publishes or causes to be published in any newspaper, gazette, journal, periodical circular, newsletter, letter, or like document information with respect to the commencement of proceedings for debts or liquidated demands so as to identify defendants thereto before judgments are entered against them for the amounts claimed or any part thereof shall be guilty of an offence.

Penalty: 5 penalty units.

No. 6117 s. 81.  
S. 81  
amended by  
Nos 7705  
s. 9(s),  
46/1987 s. 6,  
19/1989  
s. 14(d)(i)–  
(iii)(e), 8/1991  
s. 19(2),  
repealed by  
No. 10/1999  
s. 28(2) .

\* \* \* \* \*

**82 No privilege to exempt persons from provisions of Act**

No. 6117 s. 82.

No privilege shall be allowed to any counsel or practitioner or other person to exempt him from the provisions of this Act.

**83 Certain actions in Supreme Court to be stayed**

No. 6117 s. 83.

(1) If any proceeding is instituted in the Supreme Court for any debt (other than on a bill of exchange or promissory note for \$100 or upwards) for which a writ might have been issued in the County Court, the Supreme Court may before an appearance is entered by the defendant, if final judgment has not been signed by the plaintiff, order that upon payment by the defendant to the plaintiff within a time to be named in such order of the debt for which such proceeding is brought without costs all further proceedings shall be stayed.

S. 83(1)  
amended by  
Nos 9007  
s. 2(d),  
19/1989  
s. 14(f)(i)–(iv).

(2) Thereupon in case default is made in payment of such debt the plaintiff may at once sign final judgment for the said debt and for the costs hereinafter mentioned as if no such order had been made; and in that case the costs of and occasioned by the said application as well as the costs of the proceeding shall be assessed in the ordinary way, and the plaintiff may upon such judgment issue execution according to the course and practice of the court.

S. 83(2)  
amended by  
Nos 19/1989  
s. 14(g),  
35/1996  
s. 453(Sch. 1  
item 15.13).

**84 Securities for money, marketable securities etc. seized under warrant**

S. 84  
inserted by  
No. 6951 s. 8,  
amended by  
No. 19/1989  
s. 14(h).

(1) Where in pursuance of any warrant issued out of the court any cheques bills of exchange promissory notes bonds specialties or other securities for money are seized by any bailiff the bailiff shall hold the same as security for the amount directed to be levied or any part thereof

s. 86

and the judgment creditor shall be entitled, in the name of the judgment debtor or of any other person in whose name the judgment debtor may be entitled to proceed, to sue for the recovery of any sum or sums secured or made payable by or under any such cheque bill of exchange promissory note bond specialty or other security.

S. 84(2)(a)  
amended by  
Nos 9699  
s. 23, 19/1989  
s. 14(i),  
44/2001  
s. 3(Sch.  
item 25).

- (2) (a) In the execution of any warrant issued out of the court a bailiff may seize and sell or dispose of any marketable securities within the meaning of the Corporations Act which are standing in the name of any person against whom the warrant has issued.
- (b) Upon the bailiff signing a sale note thereof any person to whom such marketable securities are sold or disposed of under this subsection shall be entitled thereto and to all the rights and privileges thereof and shall be subject to all liabilities in relation thereto in all respects as if the previous holder thereof had executed an instrument of transfer of such marketable securities to the purchaser.

S. 85  
inserted by  
No. 6951 s. 8,  
amended by  
No. 9019  
s. 2(1)(Sch.  
item 33),  
repealed by  
No. 19/1989  
s. 14(j).

\* \* \* \* \*

S. 86  
inserted by  
No. 6951 s. 8.

## 86 Transfer of judgment to Supreme Court

- (1) Whenever any judgment has been entered the registrar shall, upon application made by the judgment creditor or any person on his behalf, grant and issue to the person making the application a certificate of such judgment and of the amount remaining due and unpaid thereon and

---

shall make a minute of the grant of such certificate in the register.

- (2) No such certificate shall be granted—
  - (a) before the expiration of any time during which execution could not be issued out of the County Court;
  - (b) if any warrant of execution has been issued out of the County Court under that judgment against the person of the judgment debtor; or
  - (c) until after the return of any warrant of execution issued out of the County Court under that judgment against the goods and chattels of the judgment debtor.
- (3) After the issue of any such certificate no further proceedings shall be had or taken in the County Court.
- (4) Any such certificate may be filed in the Supreme Court and thereupon without any previous process final judgment may be entered in that court (on which judgment no appeal or proceeding in error shall lie) for the sum mentioned in such certificate to be unpaid together with interest thereon at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** from the day named in the certificate until the day of the said final judgment and all costs fees and charges of obtaining the said certificate and entering such final judgment.
- (5) Upon the entry of such judgment execution may be forthwith issued in the Supreme Court as for any other judgment of the said Court.

S. 86(4)  
amended by  
Nos 9633 s. 8,  
9967 s. 10.



s. 87

S. 87  
inserted by  
No. 16/1986  
s. 15.

## 87 Council of Judges

- (1) A Council of the Judges of the Court, after notice has been given to all the Judges, must meet for the following purposes once at least in each year on such day or days as are fixed by the Chief Judge—
  - (a) considering the operation of this Act and the Rules;
  - (b) considering the working of the several offices and the arrangements relating to the duties of the officers of the Court;
  - (c) inquiring into and examining any defects which appear to exist in the system of procedure or the administration of the law in the Court or in any other court from which any appeal lies to the Court.
- (2) The Judges must report annually to the Governor in respect of the operation of the court.
- (3) In this section **Judges** does not include a judge who made an election under section 13A(1), or was appointed under section 13A(3A), before the commencement of section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005** or an associate judge.

S. 87(3)  
amended by  
Nos 9/1995  
s. 8(5),  
14/2006 s. 11,  
28/2007  
s. 3(Sch.  
item 15),  
24/2008  
s. 71(3).

S. 88  
inserted by  
No. 35/1996  
s. 453(Sch. 1  
item 15.14).

## 88 Robing of Judges

All matters pertaining to the robing of judges are to be determined by the Chief Judge after consultation with the Council of the Judges.

S. 89  
inserted by  
No. 10/1999  
s. 29.

## 89 Transitional provisions

The amendments of this Act made by sections 27 and 28 of the **Magistrates' Court (Amendment) 1999** apply to proceedings, whether commenced before or after the commencement of those sections.

**90 Transitional provision—reserve judges**

The repeal of sections 13A, 16 and 16A by section 7 of the **Courts Legislation (Judicial Appointments and Other Amendments) Act 2005** does not affect an election or appointment made under section 13A, 16 or 16A before the commencement of section 7 of that Act and a judge who has made such an election or been so appointed and who holds the office of judge immediately before that commencement continues in that office subject to section 13A, 16 or 16A (as the case may be) as if that section had not been repealed.

S. 90  
inserted by  
No. 3/2005  
s. 9.

**91 Transitional provisions—Courts Legislation (Jurisdiction) Act 2006**

The amendments of this Act made by section 3 of the **Courts Legislation (Jurisdiction) Act 2006** apply only to proceedings commenced on or after the commencement of that section.

S. 91  
inserted by  
No. 50/2006  
s. 4.

**92 Transitional provisions—Courts Legislation Amendment (Associate Judges) Act 2008**

- (1) Unless the contrary intention appears, on and from the commencement of section 53 of the **Courts Legislation Amendment (Associate Judges) Act 2008**, a reference in any Act (other than that Act), subordinate instrument or other document, to a master of the County Court is to be construed as a reference to an associate judge of the County Court.
- (2) Nothing in the **Courts Legislation Amendment (Associate Judges) Act 2008** affects the pension entitlements of a master who resigned, retired or died before the commencement of section 56 of that Act or the spouse or partner or eligible child of such a master and—

S. 92  
inserted by  
No. 24/2008  
s. 72.

- (a) subject to paragraph (b), those entitlements continue in existence as if the amendments made by that Act had not been made;
- (b) a reference in section 17B to the annual salary for the time being applicable or payable in respect of an office held immediately before retirement or at the date of death, resignation or retirement is, in relation to a former master who resigned or retired before the commencement of section 56 of the **Courts Legislation Amendment (Associate Judges) Act 2008** or the spouse or partner or eligible child of such a former master, a reference to the annual salary for the time being payable under section 17AA(1) of the **County Court Act 1958** in respect of the office of associate judge.

S. 93  
inserted by  
No. 51/2008  
s. 9.

**93 Transitional provision—County Court Amendment (Koori Court) Act 2008**

The amendments made to this Act by section 6 of the **County Court Amendment (Koori Court) Act 2008** apply to any proceeding, irrespective of when the offence to which the proceeding relates was committed or when the proceeding commenced, but does not apply to a proceeding in which the accused was arraigned before the commencement of that section.

S. 94  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 12.2).

**94 Transitional provision—Statute Law Amendment (Evidence Consequential Provisions) Act 2009**

Section 4G, as amended by the **Statute Law Amendment (Evidence Consequential Provisions) Act 2009**, does not apply to a sentencing hearing that commenced before the day that Act commenced and that—

- 
- (a) continued on or after that day; or
  - (b) was adjourned until that day or a day after that day.
-

County Court Act 1958  
6230/1958

Sch. 1

---

**SCHEDULES**

**FIRST SCHEDULE**

---

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
5797	<b>Judges (Powers) Act 1954</b>	So much as is not already repealed
6117	<b>County Court Act 1957</b>	The whole

---

Sch. 2  
repealed by  
No. 11/2002  
s. 3(Sch. 1  
item 12).

---

\* \* \* \* \*

Sch. 3  
repealed by  
No. 8132  
s. 4.

\* \* \* \* \*

---

---

## ENDNOTES

### 1. General Information

The **County Court Act 1958** was assented to on 30 September 1958 and came into operation 1 April 1959: Government Gazette 18 March 1959 page 892.

## 2. Table of Amendments

This Version incorporates amendments made to the **County Court Act 1958** by Acts and subordinate instruments.

### **Supreme Court and County Court (Judges) Act 1958, No. 6429/1958**

(as amended by No. 6489)

*Assent Date:* 14.10.58  
*Commencement Date:* 14.10.58  
*Current State:* All of Act in operation

### **Judges Salaries Act 1958, No. 6470/1958** (as amended by No. 6489)

*Assent Date:* 9.12.58  
*Commencement Date:* 1.7.58: s. 1(2)  
*Current State:* All of Act in operation

### **Judges Salaries and Allowances Act 1960, No. 6621/1960**

*Assent Date:* 1.6.60  
*Commencement Date:* 21.2.60: s. 1(2)  
*Current State:* All of Act in operation

### **Subordinate Legislation Act 1962, No. 6886/1962** (as amended by No. 6961)

*Assent Date:* 8.5.62  
*Commencement Date:* 1.8.62: Government Gazette 4.7.62 p. 2314  
*Current State:* All of Act in operation

### **County Court (Judges) Act 1962, No. 6891/1962**

*Assent Date:* 1.10.62  
*Commencement Date:* 1.10.62  
*Current State:* All of Act in operation

### **Judges' Pensions Act 1962, No. 6901/1962**

*Assent Date:* 30.10.62  
*Commencement Date:* 30.10.62  
*Current State:* All of Act in operation

### **County Court (Amendment) Act 1962, No. 6951/1962**

*Assent Date:* 11.12.62  
*Commencement Date:* 11.12.62  
*Current State:* All of Act in operation

### **Judges Salaries and Allowances Act 1963, No. 7055/1963**

*Assent Date:* 26.11.63  
*Commencement Date:* 1.7.63: s. 1(2)  
*Current State:* All of Act in operation

### **Judges' Pensions Act 1963, No. 7066/1963**

*Assent Date:* 3.12.63  
*Commencement Date:* 3.12.63  
*Current State:* All of Act in operation

---

**Judges' Salaries and Allowances Act 1965, No. 7346/1965**

*Assent Date:* 14.12.65  
*Commencement Date:* 1.12.65: s. 1(2)  
*Current State:* All of Act in operation

**County Court (Common Law Jurisdiction) Act 1966, No. 7420/1966**

*Assent Date:* 24.5.66  
*Commencement Date:* 1.8.66: Government Gazette 13.7.66 p. 2421  
*Current State:* All of Act in operation

**Supreme and County Courts (Sittings) Act 1967, No. 7522/1967**

*Assent Date:* 15.3.67  
*Commencement Date:* 23.1.67: s. 1(2)  
*Current State:* All of Act in operation

**Judges and Public Officers Salaries Act 1967, No. 7581/1967**

*Assent Date:* 21.11.67  
*Commencement Date:* 1.7.67: s. 1  
*Current State:* All of Act in operation

**Juries Act 1967, No. 7651/1967**

*Assent Date:* 19.12.67  
*Commencement Date:* Ss 1, 2(3)–(5) on 19.12.67: s. 1(2) (as amended by No. 7725 s. 2(a)); s. 15(1)(2) on 1.12.68: Government Gazette 27.11.68 p. 3854; rest of Act on 1.1.69: Government Gazette 4.12.68 p. 3919  
*Current State:* All of Act in operation

**County Court (Jurisdiction) Act 1968, No. 7705/1968**

*Assent Date:* 15.10.68  
*Commencement Date:* 1.1.69: Government Gazette 4.12.68 p. 3919  
*Current State:* All of Act in operation

**Mines (Abolition of Courts) Act 1969, No. 7840/1969**

*Assent Date:* 20.5.69  
*Commencement Date:* 20.5.69  
*Current State:* All of Act in operation

**Judges' Salaries and Allowances Act 1970, No. 7940/1970**

*Assent Date:* 24.3.70  
*Commencement Date:* 1.1.70: s. 1(2)  
*Current State:* All of Act in operation

**Judges Pensions Act 1970, No. 7973/1970**

*Assent Date:* 13.4.70  
*Commencement Date:* 5.6.70: Government Gazette 27.5.70 p. 1466  
*Current State:* All of Act in operation

**Judges' Pensions (Amendment) Act 1970, No. 7985/1970**

*Assent Date:* 20.10.70  
*Commencement Date:* 5.6.70: s. 1(2)  
*Current State:* All of Act in operation



County Court Act 1958  
6230/1958

Endnotes

**County Court (Jurisdiction) Act 1971, No. 8132/1971**

*Assent Date:* 4.5.71  
*Commencement Date:* 4.5.71  
*Current State:* All of Act in operation

**Judges Salaries and Allowances Act 1971, No. 8183/1971**

*Assent Date:* 23.11.71  
*Commencement Date:* 23.11.71  
*Current State:* All of Act in operation

**County Court (Jurisdiction) Act 1972, No. 8263/1972**

*Assent Date:* 9.5.72  
*Commencement Date:* 9.5.72  
*Current State:* All of Act in operation

**Local Government Act 1972, No. 8291/1972**

*Assent Date:* 13.5.72  
*Commencement Date:* Ss 1–10, 12–28, 30–34 on 1.7.72; s. 11 on 1.10.72;  
s. 29 on 1.12.72: Government Gazette 31.5.72 p. 1922  
*Current State:* All of Act in operation

**Judges Salaries and Allowances Act 1973, No. 8481/1973**

*Assent Date:* 27.11.73  
*Commencement Date:* 27.11.73: s. 2(1)  
*Current State:* All of Act in operation

**County Court (Chief Judge) Act 1974, No. 8625/1974**

*Assent Date:* 10.12.74  
*Commencement Date:* 18.3.75: Government Gazette 13.3.75 p. 577  
*Current State:* All of Act in operation

**Judges Salaries and Allowances Act 1975, No. 8680/1975**

*Assent Date:* 29.4.75  
*Commencement Date:* 29.4.75: s. 1(2)  
*Current State:* All of Act in operation

**Judges Salaries Act 1976, No. 8853/1976**

*Assent Date:* 8.6.76  
*Commencement Date:* 8.6.76: Government Gazette 8.6.76 p. 1665  
*Current State:* All of Act in operation

**County Court (Amendment) Act 1976, No. 8883/1976**

*Assent Date:* 19.10.76  
*Commencement Date:* 19.10.76: s. 1(3)  
*Current State:* All of Act in operation

**Employers and Employés (Repeal) Act 1976, No. 8915/1976 (as amended by No. 9059)**

*Assent Date:* 7.12.76  
*Commencement Date:* 7.12.76: s. 1(2)  
*Current State:* All of Act in operation

**County Court (Amendment) Act 1977, No. 9007/1977**

*Assent Date:* 10.5.77  
*Commencement Date:* 10.5.77: s. 1(3)  
*Current State:* All of Act in operation

County Court Act 1958  
6230/1958

Endnotes

---

**Statute Law Revision Act 1977, No. 9019/1977**

*Assent Date:* 17.5.77  
*Commencement Date:* 17.5.77: subject to s. 2(2)  
*Current State:* All of Act in operation

**Judges Salaries Act 1977, No. 9063/1977**

*Assent Date:* 29.11.77  
*Commencement Date:* 30.11.77: Government Gazette 30.11.77 p. 3646  
*Current State:* All of Act in operation

**Age of Majority Act 1977, No. 9075/1977**

*Assent Date:* 6.12.77  
*Commencement Date:* 1.2.78: Government Gazette 11.1.78 p. 97  
*Current State:* All of Act in operation

**Judges Salaries Act 1978, No. 9176/1978**

*Assent Date:* 31.10.78  
*Commencement Date:* 8.11.78: Government Gazette 8.11.78 p. 3496  
*Current State:* All of Act in operation

**Judges Salaries Act 1979, No. 9293/1979**

*Assent Date:* 23.10.79  
*Commencement Date:* 31.10.79: Government Gazette 31.10.79 p. 3461  
*Current State:* All of Act in operation

**County Court (Jurisdiction) Act 1979, No. 9308/1979**

*Assent Date:* 11.12.79  
*Commencement Date:* 1.11.80: Government Gazette 3.9.80 p. 3017  
*Current State:* All of Act in operation

**Statute Law Revision Act 1980, No. 9427/1980**

*Assent Date:* 27.5.80  
*Commencement Date:* 27.5.80: subject to s. 6(2)  
*Current State:* All of Act in operation

**Judges' Salaries and Pensions Act 1980, No. 9468/1980**

*Assent Date:* 16.12.80  
*Commencement Date:* 16.12.80: s. 1(2)  
*Current State:* All of Act in operation

**Statute Law Revision Act 1981, No. 9549/1981**

*Assent Date:* 19.5.81  
*Commencement Date:* 19.5.81: subject to s. 2(2)  
*Current State:* All of Act in operation

**Penalties and Sentences Act 1981, No. 9554/1981**

*Assent Date:* 19.5.81  
*Commencement Date:* S. 2(2)(Sch. 2 items 46–51) on 1.9.81: Government Gazette 26.8.81 p. 2700  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Penalty Interest Rates Act 1981, No. 9633/1981**

*Assent Date:* 8.12.81  
*Commencement Date:* 1.4.82: Government Gazette 17.2.82 p. 456  
*Current State:* All of Act in operation

County Court Act 1958  
6230/1958

Endnotes

**Listing of Debtors Act 1981, No. 9639/1981**

*Assent Date:* 15.12.81  
*Commencement Date:* 15.12.81: s. 1(2)  
*Current State:* All of Act in operation

**Companies (Consequential Amendment) Act 1981, No. 9699/1981**

*Assent Date:* 5.1.82  
*Commencement Date:* S. 23(Sch. 2) on 1.7.82: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Judges Salaries Act 1982, No. 9813/1982**

*Assent Date:* 14.12.82  
*Commencement Date:* Ss 2, 4 on 14.11.82: s. 1(2); rest of Act on 1.1.83: s. 1(2)  
*Current State:* All of Act in operation

**Instruments (Bills of Exchange) Act 1983, No. 9947/1983**

*Assent Date:* 27.9.83  
*Commencement Date:* 27.9.83: s. 1(3)  
*Current State:* All of Act in operation

**County Court (Jurisdiction) Act 1983, No. 9957/1983**

*Assent Date:* 15.11.83  
*Commencement Date:* 15.11.83: s. 1(3)  
*Current State:* All of Act in operation

**Penalty Interest Rates Act 1983, No. 9967/1983**

*Assent Date:* 22.11.83  
*Commencement Date:* 1.7.83: s. 1(3)  
*Current State:* All of Act in operation

**Courts (Powers of Investment) Act 1983, No. 10013/1983**

*Assent Date:* 13.12.83  
*Commencement Date:* 1.1.84: Government Gazette 29.12.83 p. 4150  
*Current State:* All of Act in operation

**County Court (Amendment) Act 1984, No. 10117/1984**

*Assent Date:* 30.10.84  
*Commencement Date:* S. 5 on 3.9.84: s. 2(2); rest of Act on 30.10.84: s. 2(1)  
*Current State:* All of Act in operation

**Health (Amendment) Act 1985, No. 10262/1985**

*Assent Date:* 10.12.85  
*Commencement Date:* S. 4(Sch.) on 1.3.86: Government Gazette 26.2.86 p. 451  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Amendment Act 1986, No. 16/1986 (as amended by No. 107/1986)**

*Assent Date:* 22.4.86  
*Commencement Date:* S. 11 on 1.7.86: Government Gazette 25.6.86 p. 2180  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

---

**Guardianship and Administration Board Act 1986, No. 58/1986**

*Assent Date:* 3.6.86  
*Commencement Date:* S. 66 on 14.7.87: Government Gazette 8.7.87 p. 1792  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts (Further Amendment) Act 1986, No. 107/1986**

*Assent Date:* 16.12.86  
*Commencement Date:* Ss 6(2), 9 on 22.4.86: s. 2(2); s. 6(1)(a)(b) on 1.6.87: Government Gazette 27.5.87 p. 1236  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Supreme Court Act 1986, No. 110/1986**

*Assent Date:* 16.12.86  
*Commencement Date:* 1.1.87: s. 2  
*Current State:* All of Act in operation

**Judicial Salaries Act 1987, No. 4/1987**

*Assent Date:* 31.3.87  
*Commencement Date:* 3.6.87: Government Gazette 3.6.87 p. 1040  
*Current State:* All of Act in operation

**Equal Opportunity (Amendment) Act 1987, No. 46/1987**

*Assent Date:* 25.8.87  
*Commencement Date:* 1.12.87: Government Gazette 21.10.87 p. 2777  
*Current State:* All of Act in operation

**Courts (Amendment) Act 1987, No. 85/1987**

*Assent Date:* 1.12.87  
*Commencement Date:* S. 6 on 1.12.87: s. 2(2); rest of Act on 13.1.88: Government Gazette 13.1.88 p. 35  
*Current State:* All of Act in operation

**Local Government (Consequential Provisions) Act 1989, No. 12/1989**

*Assent Date:* 9.5.89  
*Commencement Date:* S. 4(1)(Sch. 2 items 18.1–18.3) on 1.11.89: Government Gazette 1.11.89 p. 2798; s. 4(1)(Sch. 2 item 18.4) on 1.10.92: Government Gazette 23.9.92 p. 2789  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**County Court (Amendment) Act 1989, No. 19/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* 1.8.89: Government Gazette 26.7.89 p. 1858  
*Current State:* All of Act in operation

**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

County Court Act 1958  
6230/1958

Endnotes

**Courts (Amendment) Act 1990, No. 64/1990**

*Assent Date:* 20.11.90  
*Commencement Date:* S. 13 on 1.6.91: Government Gazette 15.5.91 p. 1274  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Mineral Resources Development Act 1990, No. 92/1990**

*Assent Date:* 18.12.90  
*Commencement Date:* S. 128(Sch. 1 item 3) on 6.11.91: Government Gazette 30.10.91 p. 2970  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Crimes (Sexual Offences) Act 1991, No. 8/1991**

*Assent Date:* 16.4.91  
*Commencement Date:* S. 19 on 5.8.91: Government Gazette 24.7.91 p. 2026  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts (Case Transfer) Act 1991, No. 43/1991**

*Assent Date:* 18.6.91  
*Commencement Date:* S. 2, Pt 9 (ss 39–41) on 1.8.91; rest of Act on 1.10.91: Government Gazette 17.7.91 p. 1930  
*Current State:* All of Act in operation

**Financial Management Act 1994, No. 18/1994**

*Assent Date:* 10.5.94  
*Commencement Date:* Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act on 1.7.94: s. 2(2)  
*Current State:* All of Act in operation

**Public Prosecutions Act 1994, No. 43/1994**

*Assent Date:* 7.6.94  
*Commencement Date:* Pt 1 (ss 1–3) on 7.6.94: s. 2(1); rest of Act on 1.7.94: s. 2(3)  
*Current State:* All of Act in operation

**Constitution (Court of Appeal) Act 1994, No. 109/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* Pt 1 (ss 1, 2) on 20.12.94: s. 2(1); rest of Act on 7.6.95: Special Gazette (No. 41) 23.5.95 p. 1  
*Current State:* All of Act in operation

**Courts (General Amendment) Act 1995, No. 9/1995**

*Assent Date:* 26.4.95  
*Commencement Date:* Ss 8, 11(2) on 27.4.95: Government Gazette 27.4.95 p. 973  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Judicial Remuneration Tribunal Act 1995, No. 22/1995**

*Assent Date:* 16.5.95  
*Commencement Date:* Pt 1 (ss 1–3), s. 29 on 16.5.95: s. 2(1); ss 18, 23 on 18.5.95: Government Gazette 18.5.95 p. 1179; rest of Act on 28.9.95: Government Gazette 28.9.95 p. 2731  
*Current State:* All of Act in operation

County Court Act 1958  
6230/1958

Endnotes

---

**Legal Practice Act 1996, No. 35/1996**

*Assent Date:* 6.11.96  
*Commencement Date:* S. 453(Sch. 1 items 15.1–15.14) on 1.1.97: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts and Tribunals (General Amendment) Act 1996, No. 64/1996**

*Assent Date:* 17.12.96  
*Commencement Date:* Pt 5 (ss 13–18) on 17.12.96: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Evidence (Audio Visual and Audio Linking) Act 1997, No. 4/1997**

*Assent Date:* 22.4.97  
*Commencement Date:* S. 6 on 22.12.97: Government Gazette 18.12.97 p. 3612  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**State Trustees (Amendment) Act 1998, No. 15/1998**

*Assent Date:* 28.4.98  
*Commencement Date:* S. 8 on 1.8.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Magistrates' Court (Amendment) Act 1999, No. 10/1999**

*Assent Date:* 11.5.99  
*Commencement Date:* Ss 27–29, 31(6) on 11.5.99: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts and Tribunals Legislation (Amendment) Act 2000, No. 1/2000**

*Assent Date:* 28.3.00  
*Commencement Date:* S. 4 on 1.7.00: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Juries Act 2000, No. 53/2000**

*Assent Date:* 12.9.00  
*Commencement Date:* S. 93 on 1.8.01: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 29) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

County Court Act 1958  
6230/1958

Endnotes

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001**

*Assent Date:* 8.5.01  
*Commencement Date:* S. 3(Sch. item 17) on 1.6.01: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Judicial and Other Pensions Legislation (Amendment) Act 2001, No. 19/2001**

*Assent Date:* 29.5.01  
*Commencement Date:* Ss 11–15 on 30.5.01: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Corporations (Consequential Amendments) Act 2001, No. 44/2001**

*Assent Date:* 27.6.01  
*Commencement Date:* S. 3(Sch. item 25) on 15.7.01: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Judicial Remuneration Tribunal (Amendment) Act 2002, No. 4/2002**

*Assent Date:* 3.4.02  
*Commencement Date:* S. 12(3) on 1.1.02: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 12) on 24.4.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Amendment) Act 2003, No. 39/2003**

*Assent Date:* 11.6.03  
*Commencement Date:* S. 4 on 1.5.03: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Justice Legislation (Sexual Offences and Bail) Act 2004, No. 20/2004**

*Assent Date:* 18.5.04  
*Commencement Date:* S. 13 on 19.5.04: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Funds in Court) Act 2004, No. 30/2004**

*Assent Date:* 1.6.04  
*Commencement Date:* Ss 5, 13 on 1.7.04: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Judicial Appointments) Act 2004, No. 31/2004**

*Assent Date:* 1.6.04  
*Commencement Date:* Ss 10, 11 on 2.6.04: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

---

**Judicial Salaries Act 2004, No. 38/2004**

*Assent Date:* 8.6.04  
*Commencement Date:* S. 13 on 9.6.04: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 47) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Judicial Appointments and Other Amendments) Act 2005, No. 3/2005**

*Assent Date:* 5.4.05  
*Commencement Date:* S. 15 on 6.4.05: s. 2(1); ss 6–9 on 1.5.05: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Judicial Conduct) Act 2005, No. 16/2005**

*Assent Date:* 24.5.05  
*Commencement Date:* S. 7 on 28.4.06: Special Gazette (No. 119) 28.4.06 p. 1  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Legal Profession (Consequential Amendments) Act 2005, No. 18/2005**

*Assent Date:* 24.5.05  
*Commencement Date:* S. 18(Sch. 1 item 25) on 12.12.05: Government Gazette 1.12.05 p. 2781  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Miscellaneous Amendments) Act 2005, No. 30/2005**

*Assent Date:* 21.6.05  
*Commencement Date:* S. 5 on 22.6.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Justice Legislation (Miscellaneous Amendments) Act 2006, No. 14/2006**

*Assent Date:* 11.4.06  
*Commencement Date:* Ss 8–11 on 12.4.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Valuation of Land (Amendment) Act 2006, No. 22/2006**

*Assent Date:* 9.5.06  
*Commencement Date:* S. 20 on 1.7.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation (Jurisdiction) Act 2006, No. 50/2006**

*Assent Date:* 15.8.06  
*Commencement Date:* Ss 3, 4 on 1.1.07: Government Gazette 5.10.06 p. 2100  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**



County Court Act 1958  
6230/1958

Endnotes

**Courts Legislation Amendment (Judicial Education and Other Matters) Act 2007, No. 24/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* Ss 4, 11 on 27.6.07: s. 2  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Payroll Tax Act 2007, No. 26/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* S. 109 on 1.7.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Statute Law Revision Act 2007, No. 28/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* S. 3(Sch. item 15) on 27.6.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Criminal Procedure Legislation Amendment Act 2008, No. 8/2008**

*Assent Date:* 18.3.08  
*Commencement Date:* S. 10 on 1.7.08: s. 2(5); s. 12(3) on 1.7.10: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Constitution Amendment (Judicial Pensions) Act 2008, No. 23/2008**

*Assent Date:* 3.6.08  
*Commencement Date:* Ss 9–15 on 4.6.08: s. 2(1); s. 23 on 1.12.08: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation Amendment (Associate Judges) Act 2008, No. 24/2008**

*Assent Date:* 3.6.08  
*Commencement Date:* Ss 43–72, 90 on 17.12.08: Special Gazette (No. 377) 16.12.08 p. 1  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**County Court Amendment (Koori Court) Act 2008, No. 51/2008**

*Assent Date:* 23.9.08  
*Commencement Date:* Ss 4–9 on 18.11.08: Special Gazette (No. 307) 18.11.08 p. 1; s. 10(1)(2) on 1.12.08: s. 2(3); s. 10(4) on 8.12.08: s. 2(5); s. 10(3) on 17.12.08: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation Amendment (Costs Court and Other Matters) Act 2008, No. 78/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* S. 15 on 31.12.09: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

---

**Salaries Legislation Amendment (Salary Sacrifice) Act 2008, No. 83/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* Ss 7–9 on 11.12.08: s. 2(1); s. 10 on 17.12.08: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Relationships Amendment (Caring Relationships) Act 2009, No. 4/2009**

*Assent Date:* 10.2.09  
*Commencement Date:* S. 37(Sch. 1 item 8) on 1.12.09: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Sheriff Act 2009, No. 9/2009**

*Assent Date:* 24.3.09  
*Commencement Date:* S. 72 on 1.10.09: Government Gazette 1.10.09 p. 2539  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Superannuation Legislation Amendment Act 2009, No. 38/2009**

*Assent Date:* 30.6.09  
*Commencement Date:* Ss 20, 21 on 1.7.09: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Courts Legislation Amendment (Judicial Resolution Conference) Act 2009, No. 50/2009**

*Assent Date:* 8.9.09  
*Commencement Date:* Ss 7–11 on 16.9.09: Special Gazette (No. 319) 16.9.09 p. 1—see **Interpretation of Legislation Act 1984**  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 35) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 1 item 12), (Sch. Pt 2 item 16) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

**Consumer Affairs Legislation Amendment Act 2010, No. 1/2010**

*Assent Date:* 9.2.10  
*Commencement Date:* S. 103 on 1.8.10: Government Gazette 22.7.10 p. 1628  
*Current State:* This information relates only to the provision/s amending the **County Court Act 1958**

County Court Act 1958  
6230/1958

**Endnotes**

---

**Health and Human Services Legislation Amendment Act 2010, No. 29/2010**

*Assent Date:* 8.6.10  
*Commencement Date:* S. 54 on 1.7.10: Special Gazette (No. 235) 23.6.10  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

**Justice Legislation Amendment Act 2010, No. 30/2010**

*Assent Date:* 8.6.10  
*Commencement Date:* S. 80 on 26.6.10: Government Gazette 24.6.10  
p. 1274  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

**Courts Legislation Miscellaneous Amendments Act 2010, No. 34/2010**

*Assent Date:* 15.6.10  
*Commencement Date:* S. 3 on 16.6.10: s. 2(3); ss 28–35 on 1.1.11: s. 2(5)  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

**Superannuation Legislation Amendment Act 2010, No. 40/2010**

*Assent Date:* 30.6.10  
*Commencement Date:* Ss 107, 108 on 1.7.10: Government Gazette 1.7.10  
p. 1359  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

**Civil Procedure Act 2010, No. 47/2010**

*Assent Date:* 24.8.10  
*Commencement Date:* Ss 83–87 on 1.1.11: Government Gazette 14.10.10  
p. 2404  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

**Justice Legislation Further Amendment Act 2010, No. 64/2010**

*Assent Date:* 28.9.10  
*Commencement Date:* S. 62 on 1.11.10: Government Gazette 21.10.10  
p. 2530  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

**Commercial Arbitration Act 2011, No. 50/2011**

*Assent Date:* 18.10.11  
*Commencement Date:* S. 46(Sch. item 4) on 17.11.11: Special Gazette  
(No. 369) 15.11.11 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **County Court Act 1958**

---

Metric Conversion (County Court Act) Regulations 1973, No. 371/1973

*Date of Making:* 18.12.73  
*Date of Commencement:* 1.2.74: reg. 1

---

### 3. Explanatory Details

<sup>1</sup> S. 8(1): Section 46(1) of the **Courts and Tribunals (General Amendment) Act 1996**, No. 64/1996 reads as follows:

#### **46 County Court Act 1958—transitional provisions**

- (1) The amendments made by section 13(1) to section 8(1) of the **County Court Act 1958** apply only to appointments made after the commencement of section 13(1).

<sup>2</sup> S. 18: Section 17 of the **County Court (Amendment) Act 1989**, No. 19/1989 reads as follows:

#### **17 Transitional provision**

- (1) The person who holds office as the registrar of the Court at Melbourne immediately before the commencement of this Act holds office as the registrar under and subject to this Act and the **Public Service Act 1974** on and from that commencement without any further appointment.
- (2) Each person who holds office as a registrar of the Court (except the registrar of the Court at Melbourne) immediately before the commencement of this Act holds office as a deputy registrar under and subject to this Act and the **Public Service Act 1974** on and from that commencement without any further appointment.
- (3) Each person who holds office as an assistant registrar of the Court immediately before the commencement of this Act holds office as a deputy registrar under and subject to this Act and the **Public Service Act 1974** on and from that commencement without any further appointment.
- (4) Unless the context otherwise requires, any reference in this or any other Act or in any subordinate instrument or in any document or writing of any kind whatsoever to the registrar of

the County Court is to be taken to refer to the registrar or any deputy registrar of the Court.

<sup>3</sup> S. 47B: Section 46(2) of the **Courts and Tribunals (General Amendment) Act 1996**, No. 64/1996 reads as follows:

**46 County Court Act 1958—Transitional provisions**

- (2) The amendments made by section 15 to the **County Court Act 1958** apply only to proceedings commenced after the commencement of that section.

<sup>4</sup> S. 48(1): Section 46(3) of the **Courts and Tribunals (General Amendment) Act 1996**, No. 64/1996 reads as follows:

**46 County Court Act 1958—Transitional provisions**

- (3) The amendment made by section 16 to section 48(1) of the **County Court Act 1958** applies only to proceedings commenced after the commencement of section 16.

<sup>5</sup> S. 70: Section 46(4) of the **Courts and Tribunals (General Amendment) Act 1996**, No. 64/1996 reads as follows:

**46 County Court Act 1958—Transitional provisions**

- (4) The amendments made by section 17 to section 70 of the **County Court Act 1958** apply to proceedings, whether commenced before or after the commencement of section 17.

<sup>6</sup> S. 74: Sections 29 and 30 of the **Constitution (Court of Appeal) Act 1994**, No. 109/1994 read as follows:

**29 Proceedings before Full Court**

- (1) The **Constitution Act 1975**, the **Supreme Court Act 1986** and the **Crimes Act 1958** and any other Act amended by this Act as respectively in force immediately before the commencement of this section continue to apply, despite the enactment of this Act, to a proceeding the hearing of which by the Full Court of the Supreme Court commenced before the commencement of this section.

- (2) If the Court of Appeal so orders, anything required to be done by the Supreme Court in relation to or as a consequence of a proceeding after the Full Court has delivered judgment in that proceeding, may be done by the Court of Appeal.

### **30 References to Full Court**

A reference in an Act or an instrument made under an Act or in any other document to the Full Court of the Supreme Court or to the Supreme Court sitting as the Full Court is to be taken to include a reference to the Court of Appeal.

<sup>7</sup> S. 76: See note 6.

<sup>8</sup> S. 78(1)(hf): Section 12 of the **Evidence (Audio Visual and Audio Linking) Act 1997**, No. 4/1997 reads as follows:

### **12 Transitional provisions**

- (1) An amendment made by a provision of this Act to the **Evidence Act 1958**, the **Supreme Court Act 1986**, the **County Court Act 1958**, the **Magistrates' Court Act 1989** or the **Children and Young Persons Act 1989** applies to a proceeding that is commenced to be heard on or after the twenty-first day after the commencement of that amendment, irrespective of when the proceeding was commenced or when any offence to which the proceeding relates is alleged to have been committed.
- (2) For the purposes of subsection (1) in its application to criminal proceedings—
- (a) a trial is commenced to be heard on arraignment of the accused person; and
  - (b) a hearing of a charge for an offence is commenced to be heard on the taking of a formal plea from the accused person.

<sup>9</sup> S. 78(1)(hg): See note 8.