Courts Legislation Amendment (Judicial Education and Other Matters) Act 2007

No. 24 of 2007

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Victoria

Courts Legislation Amendment (Judicial Education and Other Matters) Act 2007†

No. 24 of 2007

[Assented to 26 June 2007]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The purposes of this Act are—

(a) to amend the **Supreme Court Act 1986**, the **County Court Act 1958**, the **Magistrates' Court Act 1989** and the **Victorian Civil and Administrative Tribunal Act 1998** to provide for the professional development and

continuing education and training of judicial officers;

(b) to amend the **Constitution Act 1975** in relation to the appointment, resignation and retirement of Supreme Court Judges and the entitlement of certain Judges or their spouses to a pension;

(c) to amend the **Constitution Act 1975** and the **Supreme Court Act 1986** to enable a Supreme Court Master to constitute the Court of Appeal in certain proceedings;

(d) to amend the **County Court Act 1958** in relation to appeals to the Court of Appeal in civil proceedings;

(e) to amend the **Children, Youth and Families Act 2005** to provide for the Koori Court (Criminal Division) of the Children's Court to continue until 1 July 2009.

2 Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.

PART 2—JUDICIAL EDUCATION

3 New Division 6 inserted in Part 2 of the Supreme Court Act 1986

See: Act No. 110/1986. Reprint No. 6 as at 28 April 2006 and amending Act No. 48/2006. LawToday: www.legislation.vic.gov.au

After Division 5 of Part 2 of the **Supreme Court Act 1986 insert**—

"**Division 6—Professional development and training**

28A Professional development and training

(1) In this section—

judicial officer means—

(a) a Judge or acting Judge of the Court; or

(b) a Master.

(2) The Chief Justice 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 Justice 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.".

4 New Division 3AA inserted in Part I of the County Court Act 1958

See: Act No. 6230. Reprint No. 12 as at 28 April 2006 and amending Act Nos 22/2006 and 50/2006 LawToday: www.legislation.vic.gov.au

After Division 3 of Part I of the **County Court Act 1958 insert**—

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

17AAA Professional development and training

(1) In this section—

judicial officer means—

(a) a judge; or

(b) a master of the court.

(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.".

5 New section 13B substituted in the Magistrates' Court Act 1989

For section 13B of the **Magistrates' Court Act 1989 substitute**—

See: Act No. 51/1989. Reprint No. 12 as at 1 October 2006 and amending Act Nos 77/2004, 62/2005, 2/2006, 48/2006, 51/2006, 76/2006, 79/2006 and 13/2007. LawToday: www.legislation.vic.gov.au

"**13B Professional development and training**

(1) In this section—

judicial officer means—

(a) a magistrate or acting magistrate; or

(b) a judicial registrar; or

(c) the principal registrar, a registrar or a deputy registrar.

(2) The Chief Magistrate 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 Magistrate 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.".

6 New Division 5 inserted in Part 2 of the Victorian Civil and Administrative Tribunal Act 1998

See: Act No. 53/1998. Reprint No. 5 as at 1 April 2007 and amending Act Nos 18/2003, 97/2005, 16/2006, 23/2006, 24/2006, 48/2006 and 69/2006. LawToday: www.legislation.vic.gov.au

After Division 4 of Part 2 of the **Victorian Civil and Administrative Tribunal Act 1998 insert**—

"**Division 5—Professional development and training**

38A Professional development and training

(1) The President is responsible for directing the professional development and continuing education and training of members.

(2) In discharging his or her responsibility under subsection (1) the President may direct—

(a) all members; or

(b) a specified class of member; or

(c) a specified member—

to participate in a specified professional development or continuing education and training activity.

(3) A direction under subsection (2) may be given orally or in writing.".

7 Consequential amendment

In section 30(2) of the **Victorian Civil and Administrative Tribunal Act 1998 omit** "and for directing the professional development and training of members".

PART 3—OTHER MATTERS

8 Commissions of Judges

(1) In section 75B(2) of the **Constitution Act 1975** after "Governor" **insert** "by commission".

(2) In section 77(4)(d) of the **Constitution Act 1975** for "years." **substitute** "years; or".

(3) After section 77(4)(d) of the **Constitution Act 1975 insert**—

"(e) on the resignation in writing of the judge at any time before attaining the age specified in whichever of paragraphs (a), (b), (c) or (d) is applicable to the judge.".

(4) In section 83(1C) of the **Constitution Act 1975**—

(a) for "retire" **substitute** "resign in writing";

(b) for "retirement" **substitute** "resignation".

See: Act No. 8750. Reprint No. 18 as at 31 October 2006 and amending Act No. 24/2006. LawToday: www.legislation.vic.gov.au

9 Judicial pensions

(1) After section 83(1C) of the **Constitution Act 1975 insert**—

"(1D) A person who—

(a) having resigned from the office of Judge of the Court in the circumstances set out in subsection (1C); and

(b) before attaining the age of 65 years has become afflicted with some permanent incapacity which, had he or she not resigned, would have disabled him or her from the due execution of his or her office—

is entitled, on becoming so afflicted, to a pension payable fortnightly at the rate of the pension that would have been payable under subsection (1C) if he or she had attained the

age of 65 years before becoming so afflicted.".

(2) In section 83(2)(b) of the **Constitution Act 1975** for "(1)" **substitute** "(1), (1A), (1B), (1C) or (1D)".

10 Masters may constitute Court of Appeal

(1) After section 75A(2) of the **Constitution Act 1975 insert—**

"(2A) The Court of Appeal may be constituted by a Master in the case of a proceeding for which provision is made by an Act or enactment or by rules of court for the Court of Appeal to be so constituted.".

(2) In section 11(4) of the **Supreme Court Act 1986** after "Judge of Appeal" **insert** "or a Master".

(3) For section 11(5) of the **Supreme Court Act 1986 substitute—**

"(5) The Court of Appeal may discharge or vary a judgment, order or direction given or made by a single Judge of Appeal or a Master.".

(4) After section 11(6) of the **Supreme Court Act 1986 insert—**

"(7) Subject to subsection (5), a judgment, order or direction given or made by a Master when exercising the jurisdiction and powers of the Court of Appeal has effect as a judgment, order or direction of the Court of Appeal.".

11 Appeals to the Court of Appeal from the County Court

(1) In section 74(1) of the **County Court Act 1958** for "Any" **substitute** "Subject to this section, any".

(2) After section 74(2D) of the **County Court Act 1958 insert**—

"(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.".

(3) For section 74(4) of the **County Court Act 1958 substitute**—

"(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.".

12 Continuation of Koori Court (Criminal Division) of the Children's Court

In section 2(3) of the **Children, Youth and Families Act 2005** for "1 July 2007" **substitute** "1 July 2009".

See: Act No. 96/2005. Reprint No. 1 as at 23 April 2007 and amending Act Nos 97/2005, 23/2006, 24/2006, 29/2006, 51/2006 and 81/2006. LawToday: www.legislation.vic.gov.au

13 Repeal of Act

This Act is **repealed** on the first anniversary of its commencement.

ENDNOTES

† *Minister's second reading speech—*

Legislative Assembly: 23 May 2007

Legislative Council: 7 June 2007

The long title for the Bill for this Act was "A Bill for an Act to amend the **Constitution Act 1975**, the **County Court Act 1958**, the **Supreme Court Act 1986**, the **Magistrates' Court Act 1989**, the **Victorian Civil and Administrative Tribunal Act 1998** and the **Children, Youth and Families Act 2005** and for other purposes."

Absolute majorities:

Legislative Assembly: 7 June 2007

Legislative Council: 19 June 2007