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Robyn Webb
Chief Parliamentary Counsel
Dated 7 September 2021



TASMANIA

MAGISTRATES COURT ACT 1987

No. 45 of 1987

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SCHEDULE 1 -



MAGISTRATES COURT ACT 1987

No. 45 of 1987

An Act to provide for the establishment of a Magistrates Court, to make fresh provision with respect to the appointment and tenure of office of magistrates, and to provide for the appointment of a Chief Magistrate, a Deputy Chief Magistrate, and senior officers of that Court, and for other purposes

[Royal Assent 18 August 1987]

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

PART I – PRELIMINARY

1. Short title

This Act may be cited as the *Magistrates Court Act 1987*.

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2. Commencement

- (1) This section and section 1 shall commence on the day on which this Act receives the Royal Assent.
- (2) Except as provided in subsection (1), this Act shall commence on a day to be fixed by proclamation.

3. Interpretation

In this Act, unless the contrary intention appears

—

Administrator of the Magistrates Court or *Administrator* means the person who is appointed as Administrator of the Magistrates Court pursuant to section 16;

Chief Magistrate means the person who is appointed as Chief Magistrate pursuant to section 5;

committee means the committee continued in existence by section 15AC under the name “Magistrates Rule Committee”;

complying superannuation scheme means a complying superannuation fund as provided by the law of the Commonwealth;

coroner means a coroner within the meaning of the *Coroners Act 1995*;

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Deputy Chief Magistrate means the person who is appointed as Deputy Chief Magistrate pursuant to section 6(1), and includes an acting Deputy Chief Magistrate temporarily appointed pursuant to section 6(7);

division means a division of the Magistrates Court;

function includes duty;

lower courts means –

- (a) the Magistrates Court;
- (b) courts of summary jurisdiction within the meaning of the *Justices Act 1959*;
- (ba) the Land Valuation Court continued under Part 7 of the *Valuation of Land Act 2001*;
- (c) a tribunal under any Act –
 - (i) that is constituted by a magistrate; or
 - (ii) of which a magistrate is the chairperson;

(d - f)

magistrate means a person who is appointed as a magistrate pursuant to section 4, and includes a person who, by virtue of

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section 19(1), is deemed to have been so appointed;

Magistrates Court means the Magistrates Court of Tasmania established by this Act;

minor civil claim means a minor civil claim within the meaning of the *Magistrates Court (Civil Division) Act 1992*;

the regulations means regulations made and in force under this Act.

Secretary means the Secretary of the Department.

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PART II – THE MAGISTRATES COURT

3A. Creation of the Magistrates Court

- (1) There is established by this Act a court to be known as the Magistrates Court of Tasmania.
- (2) The Magistrates Court is a court of record and shall have jurisdiction throughout the State.
- (3) The Magistrates Court consists of the Chief Magistrate, the Deputy Chief Magistrate, and the magistrates.

3B. Jurisdiction and divisions of the Magistrates Court

- (1) The Magistrates Court shall have such jurisdictions as are conferred on it by or under this Act or any other Act.
- (2) For the purposes of the organization and conduct of the business of the Magistrates Court, the Court shall exercise its jurisdictions in divisions, which may be created by or under this Act or any other Act and every proceeding in the Court shall be instituted, heard, and determined in one of those divisions.
- (3) Where an Act confers a jurisdiction on the Magistrates Court but does not specify in which division proceedings under that Act shall be adjudicated upon, the Chief Magistrate shall direct in which division the proceedings shall be instituted, heard, and determined.

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- (4) The Chief Magistrate may assign in writing a magistrate (including himself or herself and the Deputy Chief Magistrate) to such division or divisions of the Magistrates Court as he or she thinks fit.
- (5) A magistrate who is not assigned to a division or divisions of the Magistrates Court may take part in the exercise of the jurisdiction of the Magistrates Court in any of its divisions but, subject to subsection (6), a magistrate who is assigned to a division or divisions of the Court shall take part in the exercise of the jurisdiction of the Court in that division or those divisions only.
- (6) Where he or she considers that circumstances make it desirable to do so, the Chief Magistrate may arrange for a magistrate who is assigned to a division or divisions of the Court to take part in the exercise of the jurisdiction of the Court in another division of the Court, and the magistrate shall take part in the exercise of that jurisdiction accordingly.

4. Appointment of magistrates

- (1) Subject to this Act, the Governor may appoint such magistrates as the Governor thinks fit.
- (1A) Under subsection (1), a person may be appointed as a –
 - (a) permanent full-time magistrate; or
 - (b) permanent part-time magistrate.

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- (1B) If the nature of a person's appointment under subsection (1) is not specified in the instrument of appointment, the person is taken to have been appointed as a permanent full-time magistrate.
- (1C) A permanent part-time magistrate holds office for such term, not exceeding 5 years, as is specified in the instrument of appointment.
- (1D) A person appointed as a permanent full-time magistrate may, by written agreement with the Chief Magistrate made with the approval of the Attorney-General, perform the duties of that office on a part-time basis for a period specified in the agreement.
- (1E) An agreement under subsection (1D) is to specify the hours of duty that the magistrate concerned will ordinarily be expected to work whilst performing the duties of that office on a part-time basis, expressed as a proportion of the time that a permanent full-time magistrate is ordinarily expected to work.
- (1F) The hours of duty specified in an agreement under subsection (1D) may be varied by written agreement between the magistrate concerned and the Chief Magistrate made with the approval of the Attorney-General.
- (1G) Subsection (1D) does not apply to the Deputy Chief Magistrate.
- (2) A magistrate is not subject to the *State Service Act 2000* but a State Service officer or State Service employee who is appointed as a magistrate retains all of his or her existing and

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accruing rights as if his or her service as a magistrate were a continuation of the State Service employment.

- (3) Where a person ceases to hold the office of magistrate and becomes a State Service officer or State Service employee, the person's service in that office shall be regarded as service as such an officer or employee for the purposes of determining the person's rights as an officer or employee under the *State Service Act 2000*.
- (4) The Governor may, for any temporary purpose, appoint such number of qualified persons as the Governor considers necessary as temporary magistrates, and each person so appointed shall hold office for such period, on such terms, and subject to such conditions, as may be specified in the person's instrument of appointment.

(4A) In subsection (4),

qualified person means a person who –

- (a) is eligible for appointment as a magistrate under section 8(1); or
- (b) is or has been a judge of the Federal Court of Australia; or
- (c) is or has been a judge of the Federal Circuit Court of Australia or has been a magistrate of the Federal Magistrates Court; or

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- (d) is or has been a magistrate or a judge of a court of another State or a Territory.
- (5) The provisions of sections 9, 10 (other than subsection (4) of that section) and 12 do not apply to a person who is appointed as a temporary magistrate under subsection (4).
- (6) A magistrate is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.
- (7 - 10)

5. Chief Magistrate

- (1) Subject to section 19(4), the Governor may appoint a permanent full-time magistrate to be the Chief Magistrate.
- (2) The Chief Magistrate may resign from the office of Chief Magistrate but still retain the office of magistrate.

6. Deputy Chief Magistrate

- (1) Subject to section 19(5), the Governor may appoint a permanent full-time magistrate to be the Deputy Chief Magistrate.
- (2) The Deputy Chief Magistrate shall, in addition to exercising his or her functions as a magistrate, exercise such other functions as the Chief Magistrate may direct.

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- (3) The Deputy Chief Magistrate shall act in the office of the Chief Magistrate during –
 - (a) an absence from duty of the Chief Magistrate; or
 - (b) a vacancy in the office of Chief Magistrate.
- (4) The Deputy Chief Magistrate shall, while acting in the office of the Chief Magistrate, have and may perform all the functions and exercise all the powers of that office and be entitled to receive the same remuneration as is ordinarily payable to the Chief Magistrate.
- (5) Any act, matter, or thing done by the Deputy Chief Magistrate while acting in the office of the Chief Magistrate shall be deemed to have been done by the Chief Magistrate.
- (6) The Deputy Chief Magistrate may resign from the office of Deputy Chief Magistrate but still retain the office of magistrate.
- (7) The Attorney-General may, during an absence from duty by, or vacancy in the office of, Deputy Chief Magistrate, appoint a permanent full-time magistrate to be acting Deputy Chief Magistrate and that magistrate shall, while acting in the office of Deputy Chief Magistrate, be entitled to receive the same remuneration as is ordinarily payable to the Deputy Chief Magistrate.

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7. Oaths to be taken

- (1) A magistrate must not perform or exercise any of the functions, duties or powers of his or her office until he or she has, under section 8(1) of the *Promissory Oaths Act 2015*, taken and subscribed the judicial oath.
- (2) Subsection (1) only applies to a person appointed as a magistrate after the day on which the *Promissory Oaths Act 2015* commences.

8. Qualification for appointment

- (1) A person is not eligible for appointment as a magistrate unless the person is an Australian lawyer of not less than 5 years' standing as an Australian legal practitioner.
- (2) A person is not eligible for appointment as a magistrate if he or she has attained the age of 75 years.
- (3) Subsection (2) does not apply to a person who is otherwise eligible for appointment as a permanent part-time magistrate or temporary magistrate.

9. Tenure of office

- (1) A magistrate shall not be suspended or removed from office except by the Governor on an address from both Houses of Parliament, praying for such suspension or removal on the ground of proved misbehaviour or incapacity.

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- (2) Except as provided by subsection (1), the Governor shall not suspend a magistrate or remove a magistrate from office.
- (3) A magistrate shall be deemed to have vacated the office of magistrate if –
 - (a) he or she becomes bankrupt, applies to take the benefit of any laws for the relief of bankrupt or insolvent debtors, compounds with his or her creditors, or makes any assignment of his or her remuneration or estate for their benefit; or
 - (b) he or she becomes unable to perform competently the duties of the office.
- (4) Notwithstanding anything in subsections (1), (2) and (3) –
 - (a) a permanent full-time magistrate retires from office when he or she turns 75 years of age; and
 - (b) a permanent part-time magistrate retires from office when his or her term of office expires.
- (5)

10. Terms and conditions of service of magistrates

- (1) A permanent full-time magistrate is entitled to be paid a salary at the rate of –

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- (a) 75% of the salary payable to a puisne judge of the Supreme Court of Tasmania, if the magistrate is the Chief Magistrate; or
 - (b) 70% of that salary, if the magistrate is the Deputy Chief Magistrate; or
 - (c) 67.5% of that salary, in any other case.
- (1AA) Subsection (1) has effect subject to any proportional adjustment that may be temporarily required consequent on an agreement under section 4(1C).
- (1A) A permanent part-time magistrate is entitled to be paid such salary as is specified in his or her instrument of appointment.
- (1B) A magistrate is entitled to be paid such travelling and other allowances as the Governor may from time to time determine or, if there is for the time being no such determination, such travelling and other allowances as are applicable to a person who is a Head of a State Service Agency.
- (2) A magistrate is an employee for the purposes of the *Long Service Leave (State Employees) Act 1994*.
- (3) A magistrate is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.
- (4) A magistrate is a worker for the purposes of the *Workers Rehabilitation and Compensation Act 1988* and the *Asbestos-Related Diseases*

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(Occupational Exposure) Compensation Act 2011.

- (5) A magistrate is entitled to such leave as may be prescribed for a State Service officer or State Service employee.
- (6) For the purposes of subsection (5), the Chief Magistrate shall perform the same functions and exercise the same powers as a Head of a State Service Agency in respect of the magistrates.
- (7) The Chief Magistrate, Deputy Chief Magistrate and a magistrate are entitled to be paid out of the Public Account.
- (8) Any allowance payable to the Chief Magistrate, Deputy Chief Magistrate or a magistrate under this Act is to be paid out of the Public Account.
- (9) The Public Account is appropriated to the extent necessary for the purposes of subsections (7) and (8).

10A. Immunities

A magistrate, in performing any function or exercising any power of the office of magistrate, has the same immunities as a puisne judge of the Supreme Court has under section 6 (1) of the *Supreme Court Act 1887*.

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10B. Magistrates not required to give evidence in certain cases

A magistrate is not a compellable witness in a court, tribunal or any judicial or other proceedings in respect of anything that came to the magistrate's knowledge in performing and exercising the functions and powers of a magistrate.

11. Where magistrates are to be stationed

- (1) A permanent full-time magistrate is to be stationed in such city or town as the Attorney-General from time to time determines.
- (2) A permanent part-time or temporary magistrate is to work at such locations as the Chief Magistrate from time to time determines.

11A. Hours of work of certain magistrates

A permanent part-time or temporary magistrate is to work such hours as the Chief Magistrate from time to time determines.

12. Magistrates not to undertake other work

A magistrate shall not –

- (a) engage in, or continue the practice of, the profession of an Australian legal practitioner; or

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- (b) engage in any occupation or hold any office, either on a full-time or part-time basis, where engaging in that occupation or holding that office interferes, or might reasonably be expected to interfere, with the ability of the magistrate to perform the functions of –
 - (i) the office of magistrate; or
 - (ii) any office lawfully held by the magistrate in conjunction with, or by virtue of, holding the office of magistrate.

13. Jurisdiction and powers of magistrates

- (1) A magistrate has jurisdiction as a magistrate throughout the State.
- (2) A magistrate, by virtue of his or her office and without further commission or authority, is a justice.
- (3) A magistrate may exercise and perform, throughout the State, all the jurisdiction, powers, and functions conferred and imposed on magistrates by or under any law of the State.
- (4) The fact that a magistrate presides over or sits in a lower court, or exercises a jurisdiction or power, or performs a function, is conclusive evidence of his or her authority to do so.

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14. Jurisdiction and powers of Chief Magistrate

- (1) The Chief Magistrate has jurisdiction as Chief Magistrate throughout the State.
- (2) The Chief Magistrate, by virtue of his or her office and without further commission or authority, may, in his or her capacity as Chief Magistrate, exercise and perform, throughout the State, all the jurisdiction, powers and functions conferred or imposed on the Chief Magistrate by or under any law of the State.

15. Arrangement of business of courts, and administrative matters

- (1) The Chief Magistrate shall, before 1st December in each year, determine the places where lower courts may be held in the State for the period of 12 months commencing on 1st January next following and may vary the determination at any time during the period of 12 months.
- (2) The Chief Magistrate may determine that a sitting at a specified court on a specified day, or at any time, is to be used only for a specified purpose unless the justice of the matter requires otherwise.
- (3)
- (4) In consultation with the Administrator, the Chief Magistrate shall determine what jurisdictions shall be exercised by each lower court.

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- (5) The Chief Magistrate must direct in which lower courts and at what times each magistrate, justice, or coroner is to sit.
- (6) The Chief Magistrate is responsible for ensuring the orderly and expeditious discharge of the business of the lower courts and shall, in consultation with the Administrator, determine the administrative procedures to be implemented to ensure the disposal of all matters allocated to the courts with the least possible delay.
- (7) The Chief Magistrate is responsible for the administrative co-ordination, and the allocation of work, between the magistrates and between other justices.
- (8) The Chief Magistrate, in consultation with the Administrator, is responsible for the allocation of all matters for first appearance under any Act or other law in the lower courts throughout the State, regardless of whether any of the matters represents the exercise by a magistrate of an original or an appellate jurisdiction.

15AA. Practice directions

- (1) The Chief Magistrate may –
 - (a) issue such practice directions in relation to the practice and procedure of the lower courts as the Chief Magistrate thinks fit; and
 - (b) vary or revoke any such practice directions; and

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s. 15AB

- (c) publish any such practice directions as the Chief Magistrate thinks fit.
- (2) The practice and procedure of the lower courts is to be in accordance with the practice directions from time to time in force unless the provisions of any Act or of any rules or other statutory instruments made under an Act provide otherwise.
- (3) The Chief Magistrate may issue practice directions specifying the circumstances in which initiating process must be filed in a registry.

15AB. Professional development

- (1) The Chief Magistrate is responsible for the professional development of the magistrates, the other justices and the lower court staff and may, from time to time, put in place such programs for that purpose as the Chief Magistrate thinks fit.
- (2) For this section,
lower court staff includes the Administrator and the district registrars and deputy district registrars.

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s. 15AC

Part IIA – Rules

PART IIA – RULES

15AC. Magistrates Rule Committee

- (1) The former rules committee continues under the name “Magistrates Rule Committee”.
- (2) The committee consists of –
 - (a) the Chief Magistrate who is the presiding member; and
 - (b) the Deputy Chief Magistrate; and
 - (c) the permanent full-time magistrates; and
 - (d) a person appointed by the Minister on the nomination of The Tasmanian Bar; and
 - (e) a person appointed by the Minister on the nomination of the Law Society of Tasmania.
- (3) The Minister may require the body referred to in subsection (2)(d) or (e) to nominate a person within a specified period (being a period not less than 30 days).
- (4) If the body fails to nominate a person within that period, the Minister may make the nomination.
- (5) If the body referred to in subsection (2)(d) or (e) changes its name, the Governor may, by order, amend the relevant paragraph by substituting the body’s new name.

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s. 15AC

- (6) If the body referred to in paragraph (d) or (e) of subsection (2) ceases to exist, the Governor may, by order made on the recommendation of the committee, amend the relevant paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the body that has ceased to exist.
- (7) The Minister may, on the recommendation of the body referred to in paragraph (d) or (e) of subsection (2), appoint a deputy of the committee member referred to in the relevant paragraph.
- (8) If the committee member referred to in subsection (2)(d) or (e) is unable to attend a meeting of the committee for any reason, the member's deputy may attend and, when so doing, is taken to be a member of the committee with all the powers, rights and duties of a member.
- (9) All acts and proceedings of the committee while a deputy is acting in place of a member of the committee are valid and effectual for all purposes.
- (10) A committee member referred to in subsection (2)(d) or (e) and any deputy of that member holds office for the term set out in his or her instrument of appointment.
- (11) In this section,

former rules committee means the committee referred to in section 20 of the

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s. 15AD

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Magistrates Court (Civil Division) Act 1992 as in force immediately before the commencement of the Justice (Delegated Legislation) Act 2003.

15AD. Meetings and procedure of committee

- (1) Meetings of the Magistrates Rule Committee are to be convened by or on the direction of the Chief Magistrate.
- (2) The quorum for a meeting of the committee is 8, of whom one is to be the Chief Magistrate or Deputy Chief Magistrate.
- (3) If the presiding member is unable to attend a meeting of the committee, the Deputy Chief Magistrate must preside at the meeting.
- (4) A telephone or video conference between members of the committee is a meeting of the committee at which the members participating in the conference are present.
- (5) Except as provided by this section, the committee may regulate its own proceedings.

15AE. Committee may make rules of court

- (1) The Magistrates Rule Committee may make rules of court for all or any of the following:
 - (a) the divisions of the Magistrates Court;
 - (b) courts of summary jurisdiction;

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s. 15AE

- (c) except as may be provided by any Act, other lower courts;
 - (d) except as may be provided by any Act, special proceedings.
- (2) Rules made under subsection (1) for any court, division of a court or special proceedings may, subject to any relevant enactment –
- (a) regulate the practice and procedure of that court or division or those proceedings; and
 - (b) make provision for or in relation to the enforcement of judgments and orders of that court or division or magistrate presiding over those proceedings; and
 - (c) make provision for or in relation to mediation and conciliation conferences including, but not limited to, the following matters:
 - (i) the appointment of mediators and conciliators and their powers and functions;
 - (ii) the conduct of such conferences and associated procedures;
 - (iii) the consequences of such conferences or the failure of such conferences; and

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- (d) make provision for or in relation to any other matters as expressly or impliedly authorised by that enactment; and
 - (e) make provision for any incidental or ancillary matters related to the jurisdiction and business of that court or division or related to the conduct of those proceedings.
- (2A) Without limiting the generality of subsection (1) –
- (a) rules of court may be made for, or with respect to –
 - (i) the practice and procedure of a magistrate in determining a minor civil claim; and
 - (ii) the powers and functions that a registrar, mediator or conciliator may exercise, or be required to perform, in respect of a minor civil claim; and
 - (b) the rules may provide for, or with respect to, the holding of a conference by a registrar, mediator or conciliator in respect of a minor civil claim; and
 - (c) rules made for the purpose of paragraph (b) may –
 - (i) prescribe the purpose for which a conference referred to in that paragraph is to be held; and

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s. 15AE

- (ii) authorise a registrar to delegate to an officer of the Magistrates Court of which he or she is the district registrar or deputy district registrar the performance of his or her functions, and the exercise of his or her powers, in respect of the holding of a conference under those rules; and
 - (iii) provide for, or with respect to, the representation of the parties to a conference and the parties who are not entitled to be present at the conference; and
 - (iv) provide for, or with respect to, the adjournment of a conference; and
 - (v) provide for, or with respect to, the bringing about of an agreement between the parties to a proceeding as a result of a conference.
- (3) Rules made under subsection (1) for any court, division of a court or special proceedings may –
- (a) authorise any matter to be from time to time determined, applied or regulated by –
 - (i) the Chief Magistrate, a magistrate or coroner or other judicial officer specified in the rules; and

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s. 15AE

Part IIA – Rules

- (ii) the Administrator, a registrar or other court official specified in the rules; and
 - (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time or circumstance or otherwise, specified in the rules; and
 - (c) provide that a contravention of any of the rules is an offence; and
 - (d) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding one penalty unit for each day during which the offence continues; and
 - (e) contain provisions of a savings or transitional nature consequent on the enactment of the *Justice (Delegated Legislation) Act 2003* or the *Magistrates Court (Minor Civil Claims) Act 2003*, and any such provision may, if the rules so provide, take effect on the day of commencement of any Part of the Act specified in the rules or a later day.
- (4) Rules of court are statutory rules within the meaning of the *Rules Publication Act 1953*.
 - (5) The committee may delegate any of its functions or powers, other than this power of delegation, to the Chief Magistrate.

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Part IIA – Rules

s. 15AE

(6) In this section –

relevant enactment means –

- (a) the enactment under which a court or a division of a court is established or constituted, or under which provision is made for special proceedings; or
- (b) any other enactment having application to that court or division or to those proceedings;

special proceedings means applications, appeals or other proceedings that are required to be presided over by a magistrate and for which, under the relevant enactment, rules of court are expressly or impliedly authorised or required to be made by the committee.

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s. 15A

Part III – Registries, Officers, and Seal

PART III – REGISTRIES, OFFICERS, AND SEAL

15A. Registries

- (1) The Governor may cause such registries of the Magistrates Court to be established as the Governor thinks fit.
- (2) Each registry shall be a district registry in respect of such district as the Governor specifies.

16. Administrator of Magistrates Court

- (1) The Minister administering the *State Service Act 2000* may appoint a State Service officer or State Service employee to be Administrator of the Magistrates Court and that person shall hold that office in conjunction with State Service employment.
- (1A) A person holding the office of Administrator of the Magistrates Court immediately before the commencement of the *Administrative Arrangements (Miscellaneous Amendments) Act 1990* shall be deemed to hold that office under the provisions of the Principal Act as in force on that commencement and shall continue to hold that office under the same terms and conditions, including remuneration, that applied to that person immediately before that commencement.
- (2)
- (2A) The Administrator shall have and may exercise and discharge all such powers, authorities, duties, and functions as may be imposed on or

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given to a district registrar or a deputy district registrar under this or any other Act.

- (3) The Administrator shall be responsible to the Secretary of the Department for the control and direction of the staff of the lower courts appointed subject to and in accordance with the provisions of the *State Service Act 2000* in the performance of their duties and the exercise of their powers.
- (4) Subsection (3) does not apply to police officers acting as coroners' associates.

16A. Registrars

- (1) The Minister administering the *State Service Act 2000* may appoint a State Service officer or State Service employee to be the district registrar in respect of each district registry, and a person or persons appointed or employed under that Act to be a deputy district registrar or deputy district registrars in respect of each district registry, and those persons shall hold office in conjunction with State Service employment.
- (2) A registrar shall have and may exercise and discharge such powers, authorities, duties, and functions as may be specified in this or any other Act.
- (3) Where there is no district registrar or deputy district registrar for a district registry or, for any reason, the district registrar or deputy district registrar is unable to act, the Administrator may authorize a suitable person to perform the duties

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and exercise the powers of district registrar in respect of that district registry.

- (4) A deputy district registrar or a person authorized under this section to perform the duties of district registrar may exercise any of the powers conferred by this Act or otherwise on the district registrar, and any act or other thing done by or before the deputy district registrar or the person so authorized has the same force and effect as if it were done by or before the district registrar.

16B. Seals of Court

- (1) The Magistrates Court shall have a seal, the design of which shall be determined by the Attorney-General.
- (2) The seal of the Magistrates Court shall be kept at the office of the Administrator in such custody as the Chief Magistrate directs.
- (3) The district registrar in respect of a district registry shall have in his custody a seal the design of which shall, as nearly as practicable, be the same as the design of the seal of the Magistrates Court, with the addition of such words as the Chief Magistrate directs for the purpose of relating the seal to that district registry.
- (4) A document or a copy of a document sealed with a seal referred to in subsection (3) is as valid and effectual as if it had been sealed with the seal of the Magistrates Court.

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- (5) The seal of the Magistrates Court shall be affixed to documents as provided by or under this or any other Act.

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16C. Inter-court exchanges

- (1) The Chief Magistrate may enter into an arrangement with the Chief Magistrate of another State or a Territory that provides for either or both of the following:
 - (a) a magistrate of this State to serve for a period as a magistrate in that other State or that Territory;
 - (b) a magistrate of that other State or that Territory to serve for a period as a magistrate in this State.
- (2) An arrangement under subsection (1) is to be on such terms, consistent with this Act, as the Chief Magistrate and the other Chief Magistrate determine.
- (3) Notwithstanding subsection (1), a person is not eligible to exercise powers or perform functions as a magistrate in this State pursuant to an arrangement entered into under that subsection unless he or she holds an appointment under section 4(4) as a temporary magistrate.

17. Delegation

- (1) The Chief Magistrate may, by instrument in writing, delegate to a magistrate the performance or exercise of such of the functions and powers of the Chief Magistrate (other than this power of delegation) under this Act or any other Act as

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are specified in the instrument, and may, by instrument in writing, revoke wholly or in part any such delegation.

- (2) The Administrator may, by instrument in writing, delegate to a person employed in the Department the performance or exercise of such of the functions and powers of the Administrator (other than this power of delegation) as are specified in the instrument, and may, by instrument in writing, revoke wholly or in part any such delegation.
- (3) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.
- (4) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstances, as are specified in the instrument.
- (5) Notwithstanding any delegation under this section, the Chief Magistrate or the Administrator, as the case may be, may continue to perform or exercise all or any of the functions or powers delegated.
- (6) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Chief

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Magistrate or the Administrator, as the case may be, and shall be deemed to have been done by or to the Chief Magistrate or the Administrator, as the case may be.

17A. Contempt of Court

- (1) If a person –
- (a) wilfully misbehaves himself before the Magistrates Court sitting in exercise of its jurisdiction under this or any other Act;
 - (b) wilfully interrupts or obstructs any proceedings before the Court; or
 - (c) is guilty of wilful prevarication in giving evidence before the Court –

that person shall be deemed guilty of contempt of court, and the magistrate sitting in the Court may, by oral order, direct that person to be removed from the Court or other place, and to be taken into custody and may, by warrant, commit that person to imprisonment for a period not exceeding 3 months or may fine him an amount not exceeding 5 penalty units.

- (2) Where a person is guilty of misconduct referred to in subsection (1), the magistrate may, if he or she thinks fit, accept an apology for the misconduct, and may remit any penalty or punishment imposed either wholly or in part.

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17B. Special evidentiary rules

The majority of the permanent full-time magistrates may make rules of court in respect of any matter relating to the practice and procedure of the lower courts under the *Evidence (Audio and Audio Visual Links) Act 1999*.

17C. Annual report

- (1) On or before 30 November in each year, the Chief Magistrate must prepare and provide to the Minister an annual report in respect of the year that ended on the preceding 30 June.
- (2) The annual report –
 - (a) must include details as to the administration of justice in each lower court during that year; and
 - (b) may include any other matter that the Chief Magistrate considers appropriate.
- (3) The Minister must cause a copy of the annual report to be laid on the table of each House of Parliament within 10 sitting days after receiving it.

18. Regulations

The Governor may make regulations for the purposes of this Act.

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19. Transitional provisions

- (1) A person holding office as a magistrate at the commencement of this Act is deemed to have been appointed as a magistrate under this Act.
- (2) Notwithstanding section 11, a person who is holding office as a magistrate at the commencement of this Act shall not, by virtue of a determination made under section 11 on the commencement of this Act, be stationed in a city or town other than the city or town in which he or she is stationed at that commencement except with that person's consent.
- (3) In the case of a person who is holding office as a magistrate at the commencement of this Act, that person's service as a magistrate before that commencement is deemed to be service as a magistrate under this Act for the purpose of calculating his or her entitlements under section 10.
- (4) The person who is senior magistrate in the Southern Magisterial District immediately before the commencement of this Act is deemed to have been appointed as the Chief Magistrate under this Act.
- (5) The person who is senior magistrate in the Northern Magisterial District immediately before the commencement of this Act is deemed to have been appointed as the Deputy Chief Magistrate under this Act.
- (6) The person who is holding office as Clerk of Petty Sessions and Registrar of the Court of

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Requests at Hobart immediately before the commencement of this Act is deemed to have been appointed as Administrator of the Magistrates Courts under this Act.

- (7) On and after the commencement of this Act, a reference to a police magistrate or to a stipendiary magistrate in an Act, or in a regulation, rule, by-law, proclamation, order-in-council, order, summons, warrant, notice, or other instrument or document made, issued, given, or filed under or for the purposes of an Act or for the purposes of any legal proceedings shall be read as a reference to a person who is appointed as a magistrate, or is deemed to have been so appointed, under this Act.
- (8) In this section –

commencement of this Act means the day fixed by proclamation under section 2(2).

19A. Transitional and saving

- (1) The person appointed and holding office as the Special Commissioner under the *Court of Requests (Small Claims Division) Act 1985* immediately before the proclaimed day is deemed to have been appointed a magistrate under this Act on that day and his or her services as Special Commissioner, for the purposes of section 4(2) and (3) of this Act, be deemed to be services as an employee within the meaning of the *Tasmanian State Service Act 1984*.

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- (2) The person holding office as deputy registrar of the court of requests at Hobart immediately before the proclaimed day is deemed to have been appointed on that day as district registrar of the district registry established under the *Magistrates Amendment Act 1989* which includes Hobart in its area of responsibility.
- (3) The persons holding office as registrar and deputy registrar of the court of requests at Launceston immediately before the proclaimed day are deemed to have been appointed as district registrar and deputy district registrar of the district registry established under the *Magistrates Amendment Act 1989* which includes Launceston in its area of responsibility.
- (4) The persons holding office as registrar and deputy registrar of the court of requests at Devonport immediately before the proclaimed day are deemed to have been appointed as district registrar and deputy district registrar of the district registry established under the *Magistrates Amendment Act 1989* which includes Devonport in its area of responsibility.
- (5) The persons holding office as registrar and deputy registrar of the court of requests at Burnie immediately before the proclaimed day are deemed to have been appointed as district registrar and deputy district registrar of the district registry established under the *Magistrates Amendment Act 1989* which includes Burnie in its area of responsibility.

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- (6) In this section, *proclaimed day* means the day fixed by proclamation under section 2 (2) of the *Magistrates Amendment Act 1989*.

19B. Transitional provision: membership of committee

- (1) In this section –

former committee means the Rules Committee of Magistrates Court (Civil Division) as constituted under Division 1 of Part 5 of the *Magistrates Court (Civil Division) Act 1992* immediately before the transition day;

new committee means the committee continued by section 15AC under the name “Magistrates Rule Committee”;

transition day means the day on which Part 5 of the *Justice (Delegated Legislation) Act 2003* commences.

- (2) A person who was an appointed member of the former committee immediately before the transition day continues in office on and after that day as a member of the new committee, under and subject to this Act, for the remainder of the term of office set out in the instrument by which the person was appointed to the former committee.

20. Repeals

The *Magistrates Act 1969* and the *Stipendiary Magistrates Act 1972* are repealed.

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21. *See Schedule 1.*

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 21

The amendments effected by this Schedule have been incorporated into the authorised version of the following Acts:

- (a) Child Welfare Act 1960;*
- (b) Coroners Act 1957;*
- (c) Court of Requests (Small Claims Division) Act 1985;*
- (d) Justices Act 1959;*
- (e) Local Courts Act 1896;*
- (f) Local Government Act 1962;*
- (g) Statutory Salaries Act 1979.*

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NOTES

The foregoing text of the *Magistrates Court Act 1987* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 6 September 2021 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Magistrates Act 1987</i>	No. 45 of 1987	2.9.1987
<i>Workers Compensation Act 1988</i>	No. 4 of 1988	15.11.1988
<i>Magistrates Amendment Act 1989</i>	No. 13 of 1989	1.9.1989
<i>Administrative Arrangements (Miscellaneous Amendments) Act 1990</i>	No. 5 of 1990	1.7.1990
<i>Statute Law Revision Act 1991</i>	No. 46 of 1991	1.7.1990
<i>Magistrates Court Amendment Act 1991</i>	No. 16 of 1991	17.7.1991
<i>Magistrates Court Amendment Act 1992</i>	No. 46 of 1992	10.12.1992
<i>Statute Law Revision Act 1994</i>	No. 68 of 1994	25.11.1994
<i>Statutory Salaries Act (Repeal) Act 1996</i>	No. 45 of 1996	26.6.1995
<i>Workers Rehabilitation and Compensation Reform Act 1995</i>	No. 16 of 1995	16.8.1995
<i>Workers Rehabilitation and Compensation Reform (Consequential Amendments) Act 1996</i>	No. 42 of 1996	16.8.1995
<i>Coroners (Consequential and Miscellaneous Amendments) Act 1995</i>	No. 74 of 1995	31.12.1996
<i>Magistrates Court (Civil Division) Act 1992</i>	No. 27 of 1992	30.3.1998
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	13.7.1998
<i>Evidence (Audio and Audio Visual Links) Act 1999</i>	No. 9 of 1999	30.4.1999
<i>Magistrates Court Amendment Act 1998</i>	No. 40 of 1998	26.5.1999
<i>Mental Health (Consequential Amendments) Act 1996</i>	No. 32 of 1996	1.11.1999

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Act	Number and year	Date of commencement
<i>Justice Legislation (Miscellaneous Amendments) Act 1999</i>	No. 61 of 1999	24.11.1999
<i>Children, Young Persons and Their Families and Youth Justice (Consequential Repeals and Amendments) Act 1998</i>	No. 2 of 1998	1.7.2000
<i>Superannuation (Miscellaneous and Consequential Amendments) Act 2000</i>	No. 103 of 2000	13.12.2000
<i>Public Sector Superannuation (Miscellaneous Amendments) Act 2013</i>	No. 6 of 2013	13.12.2000
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Promissory Oaths Amendment Act 2001</i>	No. 92 of 2001	5.12.2001
<i>Justice Legislation (Miscellaneous Amendments) Act 2001</i>	No. 91 of 2001	5.12.2001
<i>Valuation of Land Act 2001</i>	No. 102 of 2001	28.6.2002
<i>Magistrates Court Amendment Act 2003</i>	No. 5 of 2003	11.4.2003
<i>Justice (Delegated Legislation) Act 2003</i>	No. 6 of 2003	1.7.2003
<i>Magistrates Court Amendment Act (No. 2) 2003</i>	No. 54 of 2003	25.9.2003
<i>Magistrates Court (Minor Civil Claims) Act 2003</i>	No. 53 of 2003	25.9.2003
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2004</i>	No. 44 of 2004	16.11.2004
<i>Statutory Officers (Age for Retirement) Act 2005</i>	No. 17 of 2005	10.6.2005
<i>Public Sector Superannuation (Miscellaneous Amendments) Act 2005</i>	No. 65 of 2005	15.12.2005
<i>Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006</i>	No. 43 of 2006	18.12.2006
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2007</i>	No. 65 of 2007	1.1.2008
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Asbestos-Related Diseases (Occupational Exposure) Compensation (Consequential</i>	No. 28 of 2011	31.10.2011

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Act	Number and year	Date of commencement
<i>Amendments) Act 2011</i>		
<i>Magistrates Court Order 2013</i>	S.R. 2013, No. 89	27.11.2013
<i>Promissory Oaths (Consequential Amendments) Act 2015</i>	No. 8 of 2015	15.5.2015
<i>Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016</i>	No. 54 of 2016	31.3.2017
<i>Statutory Appointments (Miscellaneous Amendments) Act 2017</i>	No. 36 of 2017	19.9.2017
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Justice Miscellaneous (Increasing Judicial Retirement Age) Act 2021</i>	No. 11 of 2021	6.9.2021
<i>Magistrates Court (Criminal and General Division) (Consequential Amendments) Act 2019</i>	No. 44 of 2019	not commenced

TABLE OF AMENDMENTS

Provision affected	How affected
Long Title	Amended by No. 13 of 1989, s. 4
Part I	Heading inserted by No. 13 of 1989, s. 5
Section 1	Amended by No. 13 of 1989, s. 6
Section 3	Amended by No. 4 of 1988, s. 166, No. 13 of 1989, s. 7, No. 46 of 1991, s. 5 and Sched. 3, No. 27 of 1992, Sched. 1, No. 16 of 1995, s. 94, No. 74 of 1995, s. 3 and Sched. 1, No. 2 of 1998, Sched. 2, No. 40 of 1998, s. 4, No. 103 of 2000, Sched. 1, No. 102 of 2001, Sched. 1, No. 6 of 2003, s. 25, No. 53 of 2003, Sched. 1, No. 65 of 2005, Sched. 1 and No. 54 of 2016, s. 67
Part II	Heading inserted by No. 13 of 1989, s. 8
Section 3A	Inserted by No. 13 of 1989, s. 9
Section 3B	Inserted by No. 13 of 1989, s. 9
Section 4	Amended by No. 65 of 2007, s. 9 Amended by No. 86 of 2000, Sched. 1, No. 103 of 2000, Sched. 1, No. 5 of 2003, s. 4, No. 54 of 2003, s. 4, No. 65 of 2005, Sched. 1, No. 65 of 2007, s. 10, No. 54 of 2016, s. 68 and No. 36 of 2017, s. 17
Section 5	Amended by No. 54 of 2003, s. 5
Section 6	Amended by No. 13 of 1989, s. 10, No. 54 of 2003, s. 6 and No. 65 of 2007, s. 11
Section 7	Amended by No. 92 of 2001, s. 14, No. 65 of 2007, s. 12 Substituted by No. 8 of 2015, s. 11
Section 8	Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 5 of

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Provision affected	How affected
	2003, s. 5, No. 54 of 2003, s. 7, No. 17 of 2005, Sched. 1, No. 65 of 2007, s. 13, No. 66 of 2007, Sched. 1 and No. 11 of 2021, s. 4
Section 9	Amended by No. 32 of 1996, Sched. 1, No. 54 of 2003, s. 8, No. 17 of 2005, Sched. 1, No. 65 of 2007, s. 14 and No. 11 of 2021, s. 5
Section 10	Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 17 of 1996, No. 42 of 1996, s. 3 and Sched. 1, No. 45 of 1996, s. 6, No. 86 of 2000, Sched. 1, No. 103 of 2000, Sched. 1, No. 54 of 2003, s. 9, No. 65 of 2007, s. 15, No. 28 of 2011, s. 39, No. 6 of 2013, s. 8, No. 54 of 2016, s. 69 and No. 4 of 2017, Sched. 1
Section 10A	Inserted by No. 46 of 1992, s. 4
Section 10B	Inserted by No. 61 of 1999, Sched. 1
	Amended by No. 44 of 2004, s. 44
Section 11	Substituted by No. 54 of 2003, s. 10
Section 11A	Inserted by No. 54 of 2003, s. 10
Section 12	Substituted by No. 16 of 1991, s. 4
	Amended by No. 66 of 2007, Sched. 1
Section 13	Amended by No. 13 of 1989, s. 19 and Sched. 1, No. 27 of 1992, Sched. 1, No. 16 of 1995, s. 94, No. 74 of 1995, s. 3 and Sched. 1, No. 54 of 2003, s. 11 and No. 65 of 2007, s. 16
Section 14	Amended by No. 27 of 1992, Sched. 1, No. 74 of 1995, s. 3 and Sched. 1 and No. 54 of 2003, s. 12
Section 15	Amended by No. 13 of 1989, s. 12, No. 5 of 1990, s. 3 and Sched. 1, No. 27 of 1992, Sched. 1, No. 74 of 1995, s. 3 and Sched. 1, No. 91 of 2001, s. 15 and No. 43 of 2006, s. 42
Section 15AA	Inserted by No. 91 of 2001, s. 16
	Amended by No. 43 of 2006, s. 43
Section 15AB	Inserted by No. 91 of 2001, s. 16
Section 15AC	Inserted by No. 6 of 2003, s. 26
	Amended by No. 54 of 2003, s. 13 and S.R. 2013, No. 89
Section 15AD	Inserted by No. 6 of 2003, s. 26
Section 15AE	Inserted by No. 6 of 2003, s. 26
	Amended by No. 53 of 2003, Sched. 1
Part III	Heading inserted by No. 13 of 1989, s. 13
Section 15A	Inserted by No. 13 of 1989, s. 14
	Amended by No. 65 of 2007, s. 17
Section 16	Amended by No. 13 of 1989, s. 19 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 46 of 1991, s. 5 and Sched. 3, No. 86 of 2000, Sched. 1 and No. 91 of 2001, s. 17
Section 16A	Inserted by No. 13 of 1989, s. 16
	Amended by No. 5 of 1990, s. 3 and Sched. 1 and No. 86 of 2000, Sched. 1
Section 16B	Inserted by No. 13 of 1989, s. 16

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Provision affected	How affected
Part IV	Heading inserted by No. 13 of 1989, s. 17
Section 16C	Inserted by No. 54 of 2003, s. 14
Section 17	Amended by No. 5 of 1990, s. 3 and Sched. 1
Section 17A	Inserted by No. 13 of 1989, s. 18 Amended by No. 65 of 2007, s. 18
Section 17B	Inserted by No. 9 of 1999, s. 22 Amended by No. 54 of 2003, s. 15
Section 17C	Inserted by No. 61 of 1999, Sched. 1
Section 19	Amended by No. 65 of 2007, s. 19
Section 19B	Inserted by No. 6 of 2003, s. 27