

85. Constitution of Western Australian Industrial Appeal Court

- (1) The Court by the name “Western Australian Industrial Appeal Court” established under the repealed Act is, under that name, hereby continued in existence under and subject to this Act.
- (2) The Court shall consist of 4 members namely —
 - (a) a Judge who shall be the Presiding Judge;
 - (b) a Judge who shall be the Deputy Presiding Judge; and
 - (c) 2 Judges who shall be ordinary members.
- (3) The members of the Court shall be such Judges as the Chief Justice of Western Australia shall from time to time nominate, either generally or for a specified time, to be members of the Court and the Presiding Judge and the Deputy Presiding Judge shall be such of those members as the Chief Justice of Western Australia shall nominate to be the Presiding Judge and the Deputy Presiding Judge, respectively.
- (3a) For the purpose of exercising its jurisdiction the Court shall be constituted by —
 - (a) the Presiding Judge, the Deputy Presiding Judge and one of the ordinary members; or
 - (b) the Presiding Judge and the 2 ordinary members; or
 - (c) the Deputy Presiding Judge and the 2 ordinary members.
- (3b) When the Court is constituted under subsection (3a)(c) a reference in section 87 or 88 to the Presiding Judge shall be read as a reference to the Deputy Presiding Judge.
- (4) The Court is a Court of Record and shall have an official seal.
- (5) All courts and persons acting judicially shall take judicial notice of the seal of the Court affixed to a document and shall presume that it has been duly so affixed.
- (6) Where a member of the Court is, or is expected to be, unable to attend to his duties under this Part, whether on account of illness or otherwise, the Chief Justice of Western Australia may appoint a Judge to be acting Presiding Judge, acting Deputy Presiding Judge or an acting ordinary member of the Court, as the case may require, for such period as the Chief Justice determines, and the appointment of the acting member of the Court authorises him to participate in the completion of the hearing and determination of any proceedings that he may be participating in at the expiration of that period so that he holds an appointment as an acting member of the Court during any further period while such hearing and determination are being completed.
- (7) There shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* a Clerk of the Court and such other officers as are necessary for the purposes of the proper functioning of the Court, and each of them may hold the office to which they are so appointed in conjunction with any other office under that Act.

[Section 85 amended by No. 94 of 1984 s. 53; No. 32 of 1994 s. 14.]