

STIPENDIARY MAGISTRATES.

21° GEO. V., No. XVII.

No. 17 of 1930.

AN ACT to provide for the appointment of Stipendiary Magistrates with secure tenure of office and for other relative purposes.

[Assented to 11th December, 1930.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. This Act may be cited as the *Stipendiary Magistrates Act*, 1930, and shall come into operation on a date to be fixed by proclamation; provided that section nine shall apply to and in respect of such courts and magisterial districts only as it shall be declared to be applicable to by the proclamation bringing this Act into operation or by any subsequent proclamation.

Appointment of stipendiary magistrates.
See Vic., 1929, No. 3668, s. 8.

2. The Governor shall appoint as many duly qualified persons as are needed to be stipendiary magistrates under this Act; provided that no more than twelve persons shall hold office, at one time, as stipendiary magistrates under this Act: Provided that nothing in this section shall be taken to prejudice or limit the power of making temporary appointments under section twelve.

Salaries.

3. The rate of annual salary payable to each stipendiary magistrate shall be fixed by the Governor, but shall not be less than six hundred and thirty-six pounds or more than one thousand and twenty pounds.

Appropriation.

Such salaries are hereby charged on the Consolidated Revenue Fund, and such fund, to the extent required for payment thereof, is hereby permanently appropriated.

4. All stipendiary magistrates appointed under this Act shall hold their offices during good behaviour; provided that the Governor may remove any such magistrate from office upon the address of both Houses of the Legislature praying for such removal on the ground of proved misbehaviour or incapacity; and provided further, that no person shall be capable of being appointed or entitled to hold office as a stipendiary magistrate after he has reached the age of seventy years.

Tenure of office.
Compare *Vic.*, 1929,
No. 3663, ss. 9 and
13.

5. (1.) Every stipendiary magistrate shall be a justice of the peace and coroner for the State, and is hereby empowered to exercise throughout the State all the jurisdiction, powers, and authority conferred by any statute in force at the commencement of this Act on resident or police magistrates or magistrates of local courts or chairmen of courts of session.

Powers of stipendiary magistrates.

(2.) Any reference in any statute to a resident or police magistrate or magistrate of a local court shall be deemed to extend to and include a stipendiary magistrate appointed under this Act.

(3.) The Governor may assign to any stipendiary magistrate any local court or courts, or court or courts of session, or magisterial district or districts for and in which he shall act, and may at any time revoke or vary such assignment; but the jurisdiction of such magistrate shall not be deemed to be limited to the court or courts or district or districts which has or have been assigned to him.

6. No person shall be appointed a stipendiary magistrate under this Act unless—

Qualifications for appointment.

(a) he is a barrister or solicitor entitled to practise in this or some other State of the Commonwealth, or in England, Scotland, or Ireland, or some part thereof; or

(b) he has passed the prescribed examination;

(c) his name appears under the heading of Stipendiary Magistracy on pages 74, 75, and 76 of the Public Service List, 1930.

7. The Public Service Act, 1904 (except section eighty-three thereof), shall not apply to stipendiary magistrates.

Public Service Act not to apply.

Superannuation Act to apply.

8. The Superannuation Act shall apply to any person who shall be appointed and serve as a stipendiary magistrate if he was appointed to the Public Service before the commencement of the Public Service Act, 1904.

Magistrates not to be appointed except under this Act.

9. After the commencement of this Act, no person shall be appointed a paid or salaried magistrate, or a police or resident magistrate, or a magistrate of a local court, except pursuant to the provisions of this Act:

Provided that nothing in this section shall be deemed to abrogate or limit the power of the Governor to appoint wardens or establish wardens courts under the Mining Act, 1904, or to appoint coroners.

Appointments in districts or for courts to which section eight does not extend.

10. (1.) The appointment of any person to be a resident or police magistrate or magistrate of a local court in any district, or for any court to which section nine does not extend, shall be subject to the provisions of the Public Service Act, 1904, as amended by this Act.

(2.) The jurisdiction and authority of any person so appointed in or for any such court or district as aforesaid shall be limited to the district or districts or court or courts for which he has been appointed; but such person shall, nevertheless, be a justice of the peace and coroner for the whole State.

(3.) Section thirty of the Public Service Act, 1904, is hereby amended by the excision of the word "permanently."

Preservation of jurisdiction, authority, and rights of existing magistrates.

11. (1.) The jurisdiction and authority of resident or police magistrates or magistrates of local courts in office at the time of the commencement of this Act shall not be deemed to be abrogated or impaired by this Act, and such magistrates may hold and exercise their respective offices with and subject to such rights and conditions, as regards tenure of office, emoluments, and other matters, as are then incident or applicable thereto.

(2.) Subject to this Act, any such magistrate may, if duly qualified, be appointed a stipendiary magistrate under this Act.

(3.) Any such magistrate or any other person who has passed the examination prescribed by section thirty of the Public Service Act, 1904, shall, for the purposes of this Act, be deemed to have passed the prescribed examination within the meaning of section six of this Act.

12. (1.) The Governor may appoint temporarily any person to act in the place of any stipendiary magistrate, or of any police or resident magistrate or magistrate of a local court, who is sick or absent on leave or otherwise incapacitated from performing the duties of his office.

Temporary appointments.

(2.) In the case of a vacancy occurring through the death or retirement of a stipendiary magistrate, the Governor may appoint any person to fill the vacancy during such time, not to exceed two months, as may be necessary for the appointment of his successor.

(3.) Any person to be appointed hereunder need not be qualified in manner set out in section thirty of the Public Service Act, 1904, or section six of this Act.

13. No magistrate appointed under this Act shall during his continuance in office practise as a barrister or solicitor.

Magistrates not to practise or act as paid arbitrators. See Vict., No. 3693, s. 12.

14. In this Act, subject to the context, "stipendiary magistrate" means a stipendiary magistrate appointed under this Act, and "police magistrate" or "resident magistrate" or "magistrate of a local court" includes an acting or deputy police or resident magistrate or magistrate of a local court, and "warden" or "coroner" includes an acting or deputy warden or coroner.

Interpretation.