ACTS AMENDMENT (JUDICIAL APPOINTMENTS).

No. 7 of 1982.

AN ACT to amend the Supreme Court Act 1935-1979, the Judges' Salaries and Pensions Act 1950-1979, the District Court of Western Australia Act 1969-1981, the Family Court Act 1975-1981 and the Stipendiary Magistrates Act 1957-1979.

[Assented to 6 May 1982.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Acts Amendment short title. (Judicial Appointments) Act 1982.

No. 7.] Acts Amendment (Judicial Appointments).

PART I—SUPREME COURT ACT 1935-1979.

Citation. Reprinted as approved 12 May 1980.

- 2. (1) In this Part, the Supreme Court Act 1935-1979 is referred to as the principal Act.
- (2) The principal Act as amended by this Act may be cited as the Supreme Court Act 1935-1982.

Section 4 amended.

- 3. Section 4 of the principal Act is amended by inserting after the definition of "Cause" the following definition—
 - "Chief Justice" means the Chief Justice of Western Australia and includes a Judge appointed to act in the office of Chief Justice under section 10 (3). ".

Section 10 repealed and substituted.

4. Section 10 of the principal Act is repealed and the following section is substituted—

Vacancy of office, absence etc. of Chief Justice.

- 10. (1) During any vacancy in the office of Chief Justice, or when and so often as the Chief Justice is absent on leave or in consequence of sickness, or for any reason is temporarily unable to perform the duties of his office, then where no Judge is specifically appointed by a commission issued under subsection (3) of this section to act in the office of Chief Justice, all the duties and powers of the Chief Justice shall during such vacancy, absence, or inability devolve upon the senior Judge.
 - (2) In the case of the absence or inability of the Judge upon whom the powers and duties of the Chief Justice devolve under subsection (1) of this section, such powers and duties shall during such absence or inability devolve upon the Judge who is next in seniority.
 - (3) Where the office of Chief Justice is vacant or the Chief Justice is, or is expected to be, absent or for any reason unable to

perform the duties of his office, the Governor by commission under the great seal in Her Majesty's name may appoint a Judge to act in the office of Chief Justice for such period as the Governor thinks fit and specifies in the commission.

PART II—JUDGES' SALARIES AND PENSIONS ACT 1950-1979.

(1) In this Part, the Judges' Salaries and Citation. Reprinted as Pensions Act 1950-1979 is referred to as the principal Act.

Reprinted as approved 14 November 1978 and amended by Act No. 35 of 1979

- (2) The principal Act as amended by this Act may be cited as the Judges' Salaries and Pensions Act. 1950-1982.
- Section 5 of the principal Act is amended by section 5 amended. inserting after subsection (1) the following subsection—

(1a) A Judge who is appointed to act in the office of Chief Justice under section 10 (3) of the Supreme Court Act 1935 shall be entitled. for so long as his commission remains in force, to be remunerated and to receive other allowances and reimbursements as if he had been appointed substantively to the office of Chief Justice under section 7 (1) (a) of the Supreme Court Act 1935.

PART III-DISTRICT COURT OF WESTERN AUSTRALIA ACT 1969-1981.

- 7. (1) In this Part, the District Court of Vicescal Australia Act 1969-1981 is referred to as the principal approved 5 September 1980 and amended by Act No. 118 of 1981.
- (2) The principal Act as amended by this Act may be cited as the District Court of Western Australia Act 1969-1982.

Reprinted as

Section 6 amended.

- 8. Section 6 of the principal Act is amended in the definition of "the Chairman" by deleting "the acting Chairman of Judges" and substituting the following—
 - " a District Court Judge appointed to act in the office of Chairman of Judges under section 18 (2a) ".

Section 11 amended.

- 9. Section 11 of the principal Act is amended in subsection (2) by inserting after "Governor" the following—
 - " the oath or affirmation of allegiance and ".

Section 12 amended.

- 10. Section 12 of the principal Act is amended by inserting after subsection (3) the following subsection—
 - " (4) A District Court Judge who is appointed to act in the office of Chairman under section 18 (2a) shall be entitled, for so long as his appointment to act as Chairman remains in force, to be remunerated and to receive other allowances and reimbursements as if he had been appointed substantively to the office of Chairman under section 10 (4). ".

Section 18 amended.

- 11. Section 18 of the principal Act is amended by repealing subsections (1) and (2) and substituting the following subsections—
 - " (1) Where the Chairman is absent from duty or there is a vacancy in the office of Chairman, then where no District Court Judge is specifically appointed under subsection (2a) of this section to act in the office of Chairman, all the duties and powers of the Chairman shall during such absence or vacancy devolve upon the senior District Court Judge.

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- (2) In the absence or inability of the District Court Judge upon whom the powers and duties of the Chairman devolve under subsection (1) of this section, those powers and duties shall devolve during such absence or inability upon the District Court Judge who is next in seniority.
- (2a) Where the Chairman is, or is expected to be, absent from duty or there is a vacancy in the office of Chairman, the Governor may appoint a District Court Judge to act in the office of Chairman of Judges for such period as the Governor thinks fit and specifies in the instrument of appointment.
- (2b) The Governor may at any time revoke the appointment of a District Court Judge to act as Chairman.

PART IV-FAMILY COURT ACT 1975-1981.

12. (1) In this Part, the Family Court Act 1975- Reprinted as 1981 is referred to as the principal Act.

approved 17 March 1980 and amended

- (2) The principal Act as amended by this Act may of 1981. be cited as the Family Court Act 1975-1982.
- Section 4 of the principal Act is amended by Section 4 amended. **1**3. deleting the definition of "Chairman" and substituting the following definition—

"Chairman" means the Chairman of Judges and includes a Judge appointed to act in the office of Chairman of Judges under section 11 (1a); "

Section 11 of the principal Act is amended Section 11 by repealing subsection (1) and substituting the following subsections—

- (1) Whenever—
 - (a) the Chairman is absent from the State or from duty; or

(b) there is a vacancy in the office of Chairman,

and no Judge is specifically appointed under subsection (1a) to act in the office of Chairman for the period of such absence or vacancy, the next senior Judge who is in the State and is available and willing to do so shall perform the duties and may exercise the powers of the Chairman.

(1a) Where the Chairman is, or is expected to be, absent from duty or there is a vacancy in the office of Chairman, the Governor may appoint a Judge to act in the office of Chairman of Judges for such period as the Governor thinks fit and specifies in the instrument of appointment. ".

Section 16 amended.

- 15. Section 16 of the principal Act is amended by inserting after subsection (2) the following subsection—
 - " (3) A Judge who is appointed to act in the office of Chairman under section 11 (1a) shall be entitled, for so long as his appointment to act as Chairman remains in force, to receive salary and allowances or reimbursements at the same rate as if he had been substantively appointed to the office of Chairman under section 9 (4). ".

PART V-STIPENDIARY MAGISTRATES ACT 1957-1979.

Citation. Reprinted as approved 21 January 1981.

- 16. (1) In this Part, the Stipendiary Magistrates Act 1957-1979 is referred to as the principal Act.
- (2) The principal Act as amended by this Act may be cited as the Stipendiary Magistrates Act 1957-1982.

- 17. Section 8 of the principal Act is amended section 8 in subsection (4) by deleting "on oath" and substituting the following—
 - " the oath or affirmation of allegiance and an oath ".