



Australian Capital Territory

Courts and Other Justice Legislation Amendment Act 2018 (No 2)

A2018-39

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Courts and Other Justice Legislation Amendment Act 2018 (No 2)

A2018-39

An Act to amend legislation about courts, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Courts and Other Justice Legislation Amendment Act 2018 (No 2)*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

3 Legislation amended

This Act amends the following legislation:

- *ACT Civil and Administrative Tribunal Act 2008*
- *Court Procedures Act 2004*
- *Director of Public Prosecutions Act 1990*
- *Magistrates Court Act 1930*
- *Supreme Court Act 1933*.

Part 2**ACT Civil and Administrative
Tribunal Act 2008****4 Term of appointment
Section 98 (3)**

substitute

- (3) However, a person must not be appointed as president under section 94 (1) (a), or as temporary president under section 94 (2) (a), for a term that extends beyond the date when the person turns 70 years old.

Part 3 Court Procedures Act 2004

5 New sections 11BB to 11BD

insert

11BB Leave of absence

The Attorney-General may grant leave of absence to the principal registrar on the conditions about remuneration and otherwise that the Attorney-General decides.

11BC Principal registrar must not do other work

The principal registrar must not, without the Attorney-General's consent, do either of the following:

- (a) practise as a legal practitioner;
- (b) have other paid employment.

11BD Disclosure of interests

The principal registrar must give written notice to the Attorney-General of all direct or indirect financial interests that the principal registrar has or acquires—

- (a) in a business, whether in the ACT or elsewhere; or
- (b) in a corporation carrying on a business mentioned in paragraph (a).

6 Section 11C

substitute

11C Ending principal registrar's appointment

- (1) The Executive may end the appointment of a person as principal registrar for—
 - (a) misbehaviour; or
 - (b) physical or mental incapacity, if the incapacity substantially affects the exercise of the person's functions; or
 - (c) failing to comply with section 11BC (Principal registrar must not do other work).

- (2) The Executive must end the person's appointment if the person—

- (a) becomes bankrupt or personally insolvent; or

Note **Bankrupt or personally insolvent**—see the [Legislation Act](#), dictionary, pt 1.

- (b) is convicted, or found guilty, in the ACT of an offence punishable by imprisonment for at least 1 year; or

Note **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

- (c) is convicted, or found guilty, outside the ACT of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or

- (d) is absent, other than on leave granted under section 11BB, for 14 consecutive days or for 28 days in any 12-month period; or

- (e) fails, without reasonable excuse, to comply with the person's obligations under section 11BD.

Note A person's appointment also ends if the person resigns (see [Legislation Act](#), s 210).

7 New section 11E

in part 2A, insert

11E Consultants

- (1) The principal registrar may, on behalf of the Territory, engage consultants to, or to perform services for, the principal registrar.
- (2) Consultants must be engaged on written terms and conditions decided by the principal registrar that are approved by the Attorney-General.
- (3) However, the principal registrar must not enter into a contract of employment under this section.

Part 4 **Director of Public Prosecutions
Act 1990**

8 **Appointment
Section 22 (5)**

omit

65 years

substitute

70 years

Part 5 Magistrates Court Act 1930

9 Conditions of appointment of magistrates New section 7C (2) and (3)

insert

- (2) A person's appointment as a magistrate is taken to be on a full-time basis unless the instrument of appointment states that the appointment is on a part-time basis.
- (3) A magistrate may, by written agreement with the Chief Magistrate, and with the approval of the Attorney-General—
 - (a) if the magistrate is appointed on a full-time basis—arrange to work on a part-time basis; or
 - (b) if the magistrate is appointed on a part-time basis—arrange to work on a full-time basis.

10 Term of appointment of magistrates Section 7D

omit

65 years

substitute

70 years

11 New section 7D (3) to (5)

insert

- (3) Subsection (1) applies to an appointment whether made before, on or after the commencement day.
- (4) Subsection (3), this subsection and subsection (5) expire 12 months after the commencement day.

(5) In this section:

commencement day means the day the *Courts and Other Justice Legislation Amendment Act 2018 (No 2)*, part 5 commences.

Part 6 Supreme Court Act 1933

12 Seniority of judges New section 5 (3A)

insert

- (3A) The resident judges, additional judges and acting judges are senior to the associate judge.

13 Section 41

substitute

41 Term of appointment of master

The master is appointed for the term ending when the master turns 70 years old.

14 Extension of master's term of appointment Section 41A

omit

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2 August 2018.

2 Notification

Notified under the [Legislation Act](#) on 27 September 2018.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Courts and Other Justice Legislation Amendment Bill 2018 (No 2), which was passed by the Legislative Assembly on 20 September 2018.

Clerk of the Legislative Assembly

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