

NORTHERN TERRITORY OF AUSTRALIA
SUPREME COURT AMENDMENT ACT (NO. 2) 1990

No. 52 of 1990

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NORTHERN TERRITORY OF AUSTRALIA

No. 52 of 1990

AN ACT

to amend the *Supreme Court Act*

[Assented to 15 October 1990]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Supreme Court Amendment Act (No. 2) 1990*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Supreme Court Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 9(1) of the Principal Act is amended -

- (a) by omitting the definition of "Deputy Master";
- (b) by adding at the end of the definition of "Master" the words ", and includes a person authorized under section 41H to act in the office of Master"; and

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(c) by inserting after the definition of "proceeding" the following:

"'Registrar' means a Registrar appointed under this Act;".

5. JURISDICTION BY MASTER

Section 25(2) of the Principal Act is amended by omitting "Deputy Master" and substituting "Registrar".

6. REFERENCE FOR REPORT

Section 26 of the Principal Act is amended by omitting subsection (2).

7. REFERENCE FOR TRIAL

Section 27 of the Principal Act is amended by omitting subsection (3).

8. OATH OF OFFICE

Section 37 of the Principal Act is amended by omitting "the Schedule" and substituting "Schedule 1".

9. NEW DIVISION

The Principal Act is amended by inserting after section 41 the following:

"Division 5A - Master

"41A. APPOINTMENT OF MASTER

"The Administrator may, on the recommendation of the Chief Justice, by commission, appoint a person who -

- (a) has not attained the age of 65 years; and
- (b) has been enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory of the Commonwealth for not less than 5 years,

to be the Master.

"41B. OFFICE OF PROFIT

"The Master shall not, without the approval of the Chief Justice, accept an office of profit under the Crown.

"41C. REMUNERATION

"(1) The Master shall receive -

- (a) salary at a rate;

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(b) such allowances and at such rates; and

(c) subject to section 41G, such other benefits,

as are determined, from time to time, by the Administrator.

"(2) The Consolidated Fund is appropriated to the extent necessary for the payment of the salary, allowances and benefits payable under subsection (1).

"41D. RETIREMENT

"The Master shall cease to hold office on attaining the age of 65 years.

"41E. RESIGNATION

"The Master may, by writing delivered to the Administrator, resign from that office, but the resignation is not effective until it is accepted by the Administrator.

"41F. REMOVAL OF MASTER FROM OFFICE

"The Administrator shall remove the Master from office if, and only if, the Master -

(a) becomes incapable of performing the duties of the office, other than by reason of temporary illness; or

(b) is guilty of misbehaviour.

"41G. RIGHTS OF PUBLIC SERVANTS

"Where a person appointed as the Master under this Act was, immediately before the appointment, an employee within the meaning of the *Public Service Act* -

(a) the person shall retain any existing and accruing benefits that the person was entitled to by virtue of the person's employment under that Act; and

(b) the benefits determined under section 41C(1)(c) shall be not less than those which the person would, from time to time, be entitled to had the person continued to be employed under that Act.

"41H. AUTHORIZATION TO ACT IN OFFICE OF MASTER

"(1) Where -

(a) there is a vacancy in the office of Master; or

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- (b) the Master is absent from duty or from the Territory, or is unable, for any reason, to carry out the duties of the office,

the Chief Justice may, by notice in writing, authorize a person (including an employee within the meaning of the Public Service Act) who -

- (c) has not attained the age of 65 years; and
- (d) is enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory,

to act in the office of Master subject to such limitations or restrictions, if any, as are specified in the notice.

"(2) A person authorized under subsection (1) shall not act in the office of Master for a continuous period longer than 12 months.

"41J. OATH OF OFFICE

"(1) The Master and, subject to subsection (2), a person authorized under section 41H to act in the office of Master shall, before proceeding to discharge the duties of the office, take before the Chief Justice or a Judge of the Court an oath or affirmation in accordance with one of the forms in Schedule 2.

"(2) Where a person authorized under section 41H has taken the oath or affirmation under subsection (1) that person shall be deemed, by virtue of having taken the oath or affirmation, to have complied with that subsection should that person at some later time be again authorized to act in the office of Master.

"41K. POWERS OF MASTER

"(1) The Master has power to administer oaths, and shall perform such duties in respect of a proceeding as are assigned to the Master by a law in force in the Territory, by the Rules or by order of the Court.

"(2) Where, under a law in force in the Territory, a power is exercisable, or a duty is to be performed, or a thing is to be or may be done, by a Registrar or other officer of the court, other than a Sheriff, it may be exercised, performed or done by the Master.

"(3) The Master is a Justice of the Peace for the Territory."

10. REPEAL

Sections 46 and 47 of the Principal Act are repealed.

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11. APPOINTMENT OF REGISTRARS

Section 48 of the Principal Act is amended by omitting "Deputy Master" and substituting "Registrar".

12. POWER OF REGISTRARS

Section 49 of the Principal Act is amended -

(a) by omitting from subsections (1) and (2) "Deputy Master" and substituting "Registrar"; and

(b) by adding at the end the following:

"(3) A Registrar shall not exercise a power or perform a function of the Master under section 26 or 27."

13. INDEPENDENCE OF MASTER AND REGISTRARS

Section 49A of the Principal Act is amended by omitting "Deputy Master" and substituting "Registrar".

14. OTHER OFFICERS

Section 50 of the Principal Act is amended by omitting "the Master and Deputy Masters" and substituting "Registrars".

15. SCHEDULE

The Principal Act is amended by omitting from the Schedule "SCHEDULE" and substituting "SCHEDULE 1".

16. NEW SCHEDULE

The Principal Act is amended by adding at the end the following:

"SCHEDULE 2

Section 41J

"I, _____, do swear that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of Master of the Supreme Court of the Northern Territory of Australia and that I will do right to all manner of people according to law without fear or favour, affection or ill will. So help me God!

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"I, _____, do solemnly and sincerely promise, affirm and declare that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of Master of the Supreme Court of the Northern Territory of Australia and that I will do right to all manner of people according to law without fear or favour, affection or ill will.

"

17. PREVIOUS APPOINTMENT OF AND REFERENCE TO DEPUTY MASTER

(1) A person who, immediately before the commencement of this Act, held the office of Deputy Master shall, on that commencement, be deemed to be appointed as a Registrar under the Principal Act as amended by this Act.

(2) A reference to a Deputy Master in an instrument of a legislative or administrative character shall, on the commencement of this Act, be read and construed as including reference to a Registrar.