



NORTHERN TERRITORY OF AUSTRALIA

No. 35 of 1988

AN ACT

to amend the *Magistrates Act*

[Assented to 14 September 1988]

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 *Magistrates Amendment Act 1988*.

2. PRINCIPAL ACT

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

3. DEFINITIONS

Section 3 of the Principal Act is amended by omitting the definition of "Magistrate" and substituting the following:

"'Magistrate' means the Chief Magistrate, a Stipendiary Magistrate, a Special Magistrate or a Relieving Magistrate;

'Relieving Magistrate' means a person appointed as a Relieving Magistrate under section 9A."

4. REPEAL AND SUBSTITUTION

Section 5 of the Principal Act is repealed and the following substituted:

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"5. ELIGIBILITY FOR APPOINTMENT

A person is not eligible for appointment under section 4(3) unless -

(a) the person is admitted to practise as a legal practitioner (however described) in -

(i) the High Court or a Supreme Court of a State or Territory of the Commonwealth;

(ii) New Zealand;

(iii) Papua New Guinea; or

(iv) England, Scotland or Northern Ireland,

and has been so admitted for not less than 5 years or,

(b) he has held a position of magistrate or, in the opinion of the Minister, its equivalent, in a jurisdiction referred to in paragraph (a) and has the educational qualifications prescribed for admission as a legal practitioner of the Supreme Court under section 11 of the *Legal Practitioners Act*."

5. ACTING CHIEF MAGISTRATE, ACTING STIPENDIARY MAGISTRATE

Section 9(2) of the Principal Act is amended by omitting "the Administrator" and substituting "the Administrator or the Minister".

6. NEW SECTION

The Principal Act is amended by inserting after section 9 the following:

"9A. RELIEVING MAGISTRATE

"(1) Where the Minister is of the opinion that the efficient administration of justice requires it, the Minister may appoint a person who is eligible for appointment under section 4(3) to be a Relieving Magistrate for such period, not exceeding 6 months, as is specified in the instrument of appointment.

"(2) A reference in a law of the Territory to a Stipendiary Magistrate includes a reference to a Relieving Magistrate.

"(3) A Relieving Magistrate has all the powers, functions and duties conferred or imposed upon a Stipendiary Magistrate by a law of the Territory.

"(4) A Relieving Magistrate holds office upon such terms and conditions, whether as to remuneration or otherwise, as the Minister determines.

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"(5) A Relieving Magistrate may resign his office by writing signed by him and delivered to the Minister.

"(6) The validity of anything done by a person appointed, or purported to be appointed, as a Relieving Magistrate under subsection (1) shall not be called in question by reason of any defect or irregularity in or in connection with the appointment or on the ground that the occasion for the appointment had not arisen or had ceased."

7. MAGISTRATE NOT TO UNDERTAKE OTHER WORK

Section 11(1) of the Principal Act is amended by inserting at the end "during the term of the appointment".

8. TERMS AND CONDITIONS OF APPOINTMENT

Section 17 of the Principal Act is amended by omitting "Subject to section 15, a Special Magistrate" and substituting "A Special Magistrate".

9. POWERS OF MAGISTRATES

Section 18(1) of the Principal Act is amended by omitting "Stipendiary Magistrate and each Special".

10. OATH, &c., OF OFFICE

Section 20 of the Principal Act is amended by omitting "section 4(3) or 14(1)" (three times occurring) and substituting "section 4(3), 9, 9A or 14(1)".

11. NEW SECTION

The Principal Act is amended by inserting after section 20 the following:

"20A. MATTERS PENDING WHEN TERM OF OFFICE EXPIRES, &c.

"A Magistrate is authorized to complete the hearing and determination of a proceeding that is pending before the Magistrate at the time of his or her resignation or expiration of office so that, notwithstanding that there may not be a vacancy in an office as required by section 9(1), where relevant, he or she holds an appointment as an acting Stipendiary Magistrate during any period while completing such hearing and determination."

12. REPEAL OF SECTION 22

Section 22 of the Principal Act is repealed.
