

NORTHERN TERRITORY OF AUSTRALIA

JUDICIAL AND OTHER OFFICERS' ENTITLEMENTS LEGISLATION
AMENDMENT ACT 2023

Act No. 14 of 2023

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- Schedule 1** **Supreme Court (Judges Pensions) Act
1980 further amended**
- Schedule 2** **Supreme Court (Judges Long Leave
Payments) Act 1980 further amended**
- Schedule 3** **Law Officers Act 1978 further amended**



NORTHERN TERRITORY OF AUSTRALIA

Act No. 14 of 2023

An Act to amend the *Supreme Court (Judges Pensions) Act 1980*, the *Supreme Court Act 1979*, the *Supreme Court (Judges Long Leave Payments) Act 1980*, the *Director of Public Prosecutions Act 1990*, the *Law Officers Act 1978* and the *Independent Commissioner Against Corruption Act 2017*

[Assented to 31 May 2023]
[Introduced 30 March 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Supreme Court (Judges Pensions) Act 1980

3 Act amended

This Part amends the *Supreme Court (Judges Pensions) Act 1980*.

4 Part 1 heading inserted

Before section 1

insert

Part 1 Preliminary matters**5 Section 3 amended (Interpretation)**

(1) Section 3(1)

omit

, unless the contrary intention appears

(2) Section 3(1), definitions ***Family Law Act, member spouse, non-member spouse*** and ***splitting instrument***

omit

(3) Section 3(1)

insert

ATO means the Commonwealth Commissioner of Taxation.

(4) Section 3(1), definition ***appropriate current judicial salary***

omit

he or she

insert

the Judge

(5) Section 3(1), at the end

insert

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

(6) Section 3(2)

omit, insert

(2) For this Act, any of the following periods served by a Judge are taken to be a period of service as a Judge and are added to the Judge's period of service as a Judge:

(a) a period of service as an acting Judge;

(b) another period of prior judicial service.

(3) For subsection (2) it is immaterial whether the Judge served a period mentioned in paragraph (a) or (b) immediately before a period of service as a Judge.

6 Part 2 heading inserted

After section 3AB

insert

Part 2 Superannuation surcharge

7 Part 3 heading and section 3F inserted

After section 3E

insert

Part 3 Pensions: Judges appointed before the commencement of Part 4

3F Application of Part

(1) This Part applies to a Judge who was appointed as a Judge under section 32(1)(c) or (d) of the *Supreme Court Act 1979* before the commencement of Part 4.

(2) For this section, the date on which a Judge began a period of service mentioned in section 3(2) is irrelevant.

8 Section 12 repealed (Accrual of pensions)

Section 12

repeal

9 Parts 4 and 5, Part 6 heading and section 13J inserted

After section 13

insert

Part 4 Pensions: Judges appointed on or after the commencement of this Part**13A Application of Part**

- (1) This Part applies to a Judge:
- (a) who is appointed as a Judge under section 32(1)(c) or (d) of the *Supreme Court Act 1979*; and
 - (b) to whom Part 3 does not apply.

Note for subsection (1)

Part 3 applies to a Judge who was appointed as a Judge under section 32(1)(c) or (d) of the Supreme Court Act 1979 before the commencement of this Part.

- (2) For this section, the date on which a Judge began a period of service mentioned in section 3(2) is irrelevant.

13B Pension of Judge who retires after 15 years of service

- (1) A Judge is entitled to a pension under this section if, when the Judge ceases to hold office as a Judge, the Judge:
- (a) has served as a Judge for 15 years or more; and
 - (b) is at least 65 years of age.
- (2) The pension is to be paid at a rate equal to 60% of the appropriate current judicial salary.

13C Pension of Judge in other circumstances

- (1) A Judge is entitled to a pension under this section if:
- (a) the Judge, whether by reason of the terms of the Judge's appointment or otherwise, is to cease to hold office as a Judge on the Judge attaining a particular age; and
 - (b) the Judge ceases to be a Judge on the Judge attaining that age; and
 - (c) at the time of the cessation, the Judge had served as a Judge for at least 9 years; and

- (d) section 13B does not apply to the Judge.
- (2) The pension is to be paid at the lesser of the following rates:
 - (a) one-third of 1% of the appropriate current judicial salary for each completed month of the Judge's period of service as a Judge;
 - (b) 60% of the appropriate current judicial salary.

13D Pension of Judge who retires due to permanent disability or infirmity

- (1) A Judge is entitled to a pension under this section if:
 - (a) sections 13B and 13C do not apply to the Judge; and
 - (b) the Judge retires and the Attorney-General certifies that the retirement is due to permanent disability or infirmity.
- (2) The pension is to be paid at one of the following rates:
 - (a) if, at the time of the Judge's appointment as a Judge, the Judge's period of service as a Judge could not exceed 15 years – one-third of 1% of the appropriate current judicial salary for:
 - (i) each completed month of service as a Judge (if any); and
 - (ii) each complete month of service the Judge could have served from the date of retirement until the Judge would have ceased to hold office on attaining a particular age;
 - (b) in any other case – 60% of the appropriate current judicial salary.

Examples for subsection (2)

- 1 *A Judge serves as a Judge for 8 years before retiring due to permanent disability on the day the Judge turns 70. The Judge had not served a period mentioned in section 3(2). Under the Supreme Court Act 1979, the Judge could have continued to hold office for another 5 years until turning 75. However, at the time of the Judge's appointment the Judge could not have held office for 15 years so the Judge is entitled to a pension under subsection (2)(a).*
- 2 *A Judge serves as a Judge for 8 years before retiring due to permanent disability on the day the Judge turns 70. The Judge had previously served as an acting Judge for 4 years. Under the Supreme Court Act 1979, the Judge could have continued to hold office for another 5 years until turning 75. Accordingly, after accounting for the Judge's prior service as an acting Judge, the Judge could have served more than 15 years until attaining the age of 75 and the Judge is entitled to a pension under subsection (2)(b).*

Part 5 Reduction of pension entitlement to pay tax debts

13E Definitions

In this Part:

Commonwealth Act means the *Taxation Administration Act 1953* (Cth).

pension recipient means a person who is entitled (or is about to become entitled) to receive a pension under this Act.

release authority means an authority issued to a pension recipient by the ATO under item 3 of the table in section 135-10(1) of Schedule 1 to the Commonwealth Act that authorises the Treasurer to release to the ATO an amount to which the pension recipient is entitled under this Act.

release authority lump sum means an amount paid by the Treasurer under section 13F.

13F Payment of release authority lump sum

- (1) The Treasurer may pay to the ATO a release authority lump sum from a pension recipient's entitlements if:
 - (a) the ATO issues a release authority to the pension recipient; and
 - (b) the release authority is given to the Treasurer in accordance with the Commonwealth Act.
- (2) Subject to section 13G, the amount of the release authority lump sum is the smaller of the following amounts:
 - (a) the amount stated in the release authority;
 - (b) if either the pension recipient or the ATO requests that the Treasurer pay a specified amount in relation to the release authority – that amount.

Note for section 13F

The Commonwealth Act provides for money to be released from a superannuation plan to pay a tax liability incurred under Chapter 3, Part 3-30, Division 293 of the Income Tax Assessment Act 1997 (Cth).

13G Limit on release authority lump sum

- (1) In addition to any requirements in Division 135 of Schedule 1 to the Commonwealth Act, payment of a release authority lump sum must not have the effect that a pension recipient's entitlements under this Act are reduced below zero.
- (2) For subsection (1), the effect of a release authority lump sum on a pension recipient's entitlements is to be calculated after taking account of any of the following reductions to the recipient's entitlements:
 - (a) a reduction after a commutation under section 3E;
 - (b) a reduction resulting from action taken under section 16.

13H Effect of releasing amount

- (1) If the Treasurer pays a release authority lump sum, the pension recipient's entitlements under this Act must be reduced to ensure the Territory recovers the amount of the release authority lump sum.
- (2) The Treasurer must take advice from an actuary in determining a reduction in pension entitlements under this section.
- (3) A reduction takes effect on the first day on which an entitlement under this Act is to be paid to the recipient that is more than 14 days after the Treasurer is given the release authority.
- (4) If a retired Judge entitled to a pension under Part 3 dies and the retired Judge's surviving partner is entitled to a pension under Part 3, any reduction under this section is to be applied to the surviving partner's entitlement on the first day on which the entitlement is to be paid to the surviving partner after the death of the retired Judge.

Part 6 Miscellaneous provisions**13J Accrual and payment of pensions**

Pensions under this Act:

- (a) accrue from day to day but are payable fortnightly; and
- (b) are payable out of the public moneys of the Territory and the appropriation for that purpose is established or increased to the extent necessary.

10 Section 16 amended (Act to be administered so as to comply with Family Law Act provisions in relation to superannuation)

After section 16(7)

insert

(8) In this section:

Family Law Act means the *Family Law Act 1975* (Cth) and includes regulations made under that Act.

member spouse, in relation to a superannuation interest, means the person who is the member spouse in relation to that interest under Part VIII B of the Family Law Act.

non-member spouse, in relation to a superannuation interest, means the person who is the non-member spouse in relation to that interest under Part VIII B of the Family Law Act.

splitting instrument means any of the following, within the meaning of Part VIII B of the Family Law Act:

- (a) a superannuation agreement;
- (b) a flag lifting agreement that provides for a payment split;
- (c) a splitting order.

11 Part 7 heading inserted

After section 17

insert

Part 7 Transitional matters**12 Act further amended**

Schedule 1 has effect.

Part 3 Amendment of Supreme Court Act 1979**13 Act amended**

This Part amends the *Supreme Court Act 1979*.

14 Section 9 amended (Interpretation)

After section 9(1)

insert

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

15 Section 38 amended (Retirement)

Section 38

omit

upon his attaining the age of 72

insert

on the Judge attaining the age of 75

16 Section 41 amended (Remuneration)

(1) Section 41(1)

omit, insert

(1) A Judge is to receive the following:

- (a) the salary and allowances as determined from time to time by the Administrator;
- (b) subject to Division 5AA, other benefits as determined from time to time by the Administrator.

(2) Section 41(3)

omit

shall not be altered to his detriment during his

insert

or Division 5AA must not be altered to the Judge's detriment during the Judge's

17 Division 5AA inserted

After section 41

insert

Division 5AA Long service leave entitlements of Judges**41AA Application of Division**

This Division does not apply to a Judge to whom the *Supreme Court (Judges Long Leave Payments) Act 1980* applies.

Note for section 41AA

See section 3A of the Supreme Court (Judges Long Leave Payments) Act 1980 in relation to the application of that Act.

41AB Meaning of *ordinary remuneration*

- (1) Subject to subsection (2), for this Division a Judge's ***ordinary remuneration*** is the remuneration the Judge is entitled to receive for service as a Judge.
- (2) If a Judge has worked in a part-time capacity at any time during a period of service to which an entitlement to long service leave relates, the Judge's ordinary remuneration is to be determined on a pro rata basis, based on the hours for which the Judge was remunerated during the period of service.

41AC Entitlement to long service leave

- (1) A Judge is entitled to 3 calendar months of long service leave after completing 10 years of service.
- (2) A Judge who has completed 10 years of service is entitled to 9 calendar days of long service leave for each subsequent year of completed service.
- (3) A Judge may accrue service in a full-time or part-time capacity or in a combination of those capacities.
- (4) A Judge does not accrue service when the Judge is:
 - (a) on leave without pay; or
 - (b) absent from work because of an injury for which the Judge is receiving workers' compensation payments.

41AD Grants of long service leave

- (1) Long service leave may be granted:
 - (a) to a Judge, other than the Chief Justice – with the approval of the Chief Justice; and
 - (b) to the Chief Justice – with the approval of the Attorney-General.
- (2) A Judge may, in respect of an entitlement to long service leave, be granted a period of long service leave that is:
 - (a) equal to the period of the entitlement and paid the Judge's ordinary remuneration during the period of leave; or
 - (b) twice as long as the period of the entitlement and paid the Judge's ordinary remuneration at half pay during the period of leave; or
 - (c) at least half as long as the period of the entitlement and paid:
 - (i) during the period of leave – the Judge's ordinary remuneration; and
 - (ii) in respect of the remainder of the entitlement – a lump sum that is equal to the Judge's ordinary remuneration that would have been paid to the Judge if the entitlement had been taken as leave.

Example for subsection (2)(c)

A Judge entitled to 3 months of long service leave may elect to take 2 calendar months of long service leave and be paid a lump sum in lieu of taking the third month of the entitlement as long service leave. The Judge is paid the Judge's ordinary remuneration during the 2 month period of leave and a lump sum that is equal to the remuneration the Judge would have been paid during a third month of long service leave.

- (3) During a period of leave mentioned in subsection (2)(b), the Judge accrues service and service-based entitlements at half of the ordinary rate of accrual.

Note for subsection (3)

A service-based entitlement may include an entitlement to leave, including recreation or long service leave or an entitlement to a pension under the Supreme Court (Judges Pensions) Act 1980.

- (4) Long service leave may be granted in months and tenths of a month but may not be granted for a period of leave that is less than 7 days.

- (5) Weekends, public holidays and other days on which the Judge would not have ordinarily been required to work are part of long service leave and do not extend the period of leave.
- (6) A Judge may not be granted periods of long service leave that are separated by a Saturday, Sunday or public holiday.

41AE Payment in lieu

- (1) Subject to subsection (2), a Judge is entitled to payment in lieu of long service leave on cessation of employment as follows:
 - (a) if the Judge has completed 10 or more years of service – payment in lieu of the Judge's unused entitlement to long service leave at the date of cessation;
 - (b) if the Judge has completed a total of 9 years of service – payment for 67.5 calendar days of long service leave;
 - (c) if the Judge has completed a total of 8 years of service – payment for 45 calendar days of long service leave;
 - (d) if the Judge has completed a total of 7 years of service – payment for 22.5 calendar days of long service leave.
- (2) A Judge is not entitled to payment in lieu under subsection (1)(b) to (d) if the Judge is removed from office under section 40(1) on the ground of proved misbehaviour.
- (3) If a Judge dies, the Judge's personal representative is entitled to be paid an amount that would have been payable to the Judge under this section.
- (4) Payment of an entitlement under this section is to be based on the Judge's ordinary remuneration.

18 Part VI heading inserted

After section 87

insert

Part VI Transitional matters

Part 4 **Amendment of Supreme Court (Judges Long Leave Payments) Act 1980**

19 Act amended

This Part amends the *Supreme Court (Judges Long Leave Payments) Act 1980*.

20 Section 3 amended (Interpretation)

(1) Section 3(1), definition ***judicial salary***

omit

his or her

insert

the Judge's

(2) Section 3(1), at the end

insert

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

(3) Section 3(2)

omit, insert

(2) For this Act, the following periods served by a Judge are taken to be periods of service as a Judge and are added to the Judge's period of service as a Judge:

(a) a period of service as an acting Judge;

(b) a period of service as a judge of a court other than the Supreme Court determined by the Administrator to be a period of service as a Judge for the purposes of this Act.

(3) For subsection (2) it is immaterial whether the Judge served a period mentioned in subsection (2)(a) or (b) immediately before a period of service as a Judge.

21 Section 3A inserted

After section 3

insert

3A Application of Act

- (1) This Act does not apply to a person who is appointed to be a Judge under section 32(1)(c) or (d) of the *Supreme Court Act 1979* on or after the commencement of this section.
- (2) To avoid doubt, this Act applies to a person who is appointed to be the Chief Justice of the Court on or after the commencement of this section if the person was appointed to be a Judge of the Court under section 32(1)(d) of the *Supreme Court Act 1979* before the commencement of this section.

22 Act further amended

Schedule 2 has effect.

Part 5 Amendment of Director of Public Prosecutions Act 1990**23 Act amended**

This Part amends the *Director of Public Prosecutions Act 1990*.

24 Part 2, Division 1 heading inserted

After Part 2, heading

insert

Division 1 General matters**25 Section 4 amended (Director of Public Prosecutions)**

- (1) Section 4(1)

omit

such period as is

insert

the period

- (2) Section 4(2)
omit (all references)
such
insert
the
- (3) After section 4(2)
insert
Note for subsection (2)
See Division 2 in relation to the Director's entitlements to long service leave and superannuation.
- (4) Section 4(4) and (9)
omit
he or she
insert
the Director
- (5) Section 4(5) to (8)
omit, insert
- (5) The Director must not, without the consent of the Attorney-General, engage in either of the following outside the duties of the office:
- (a) practice as a legal practitioner; or
 - (b) paid employment.
- (6) Section 4(9)
omit
his or her

26 Part 2, Division 2 inserted

After section 10

insert

Division 2 Long service leave and superannuation entitlements of Director**10A Meaning of *ordinary remuneration***

- (1) Subject to subsection (2), for this Division the Director's ***ordinary remuneration*** is the remuneration the Director is entitled to receive for service as the Director.
- (2) If the Director has worked in a part-time capacity at any time during a period of service to which an entitlement to long service leave relates, the Director's ordinary remuneration is to be determined on a pro rata basis, based on the hours for which the Director was remunerated during the period of service.

10B Entitlement to long service leave

- (1) The Director is entitled to 3 calendar months of long service leave after completing 10 years of service.
- (2) After completing 10 years of service, the Director is entitled to 9 calendar days of long service leave for each subsequent year of completed service.
- (3) The Director may accrue service in a full-time or part-time capacity or in a combination of those capacities.
- (4) The Director does not accrue service when the Director is:
 - (a) on leave without pay; or
 - (b) absent from work because of an injury for which the Director is receiving workers' compensation payments.

10C Grants of long service leave

- (1) The Director may take long service leave with the approval of the Attorney-General.
- (2) The Director may, in respect of an entitlement to long service leave, be granted a period of long service leave that is:
 - (a) equal to the period of the entitlement and paid the Director's ordinary remuneration during the period of leave; or

- (b) twice as long as the period of the entitlement and paid the Director's ordinary remuneration at half pay during the period of leave; or
- (c) at least half as long as the period of the entitlement and paid:
 - (i) during the period of leave – the Director's ordinary remuneration; and
 - (ii) in respect of the remainder of the entitlement – a lump sum that is equal to the Director's ordinary remuneration that would have been paid to the Director if the entitlement had been taken as leave.

Example for subsection (2)(c)

A Director entitled to 3 months of long service leave may elect to take 2 calendar months of long service leave and be paid a lump sum in lieu of taking the third month of the entitlement as long service leave. The Director is paid the Director's ordinary remuneration during the 2 month period of leave and a lump sum that is equal to the remuneration the Director would have been paid during a third month of long service leave.

- (3) During a period of leave mentioned in subsection (2)(b), the Director accrues service and service-based entitlements at half of the ordinary rate of accrual.

Note for subsection (3)

A service-based entitlement may include an entitlement to leave, including recreation or long service leave.

- (4) Long service leave may be granted in months and tenths of a month but may not be granted for a period of leave that is less than 7 days.
- (5) Weekends, public holidays and other days on which the Director would not have ordinarily been required to work are part of long service leave and do not extend the period of leave.
- (6) The Director may not be granted periods of long service leave that are separated by a Saturday, Sunday or public holiday.

10D Payment in lieu

- (1) The Director is entitled to payment in lieu of long service leave on cessation of employment as follows:
 - (a) if the Director has completed 10 or more years of service – payment in lieu of the Director's unused entitlement to long service leave at the date of cessation;

- (b) if the Director has completed a total of 9 years of service – payment for 67.5 calendar days of long service leave;
 - (c) if the Director has completed a total of 8 years of service – payment for 45 calendar days of long service leave;
 - (d) if the Director has completed a total of 7 years of service – payment for 22.5 calendar days of long service leave.
- (2) The Director is not entitled to payment in lieu under subsection (1)(b) to (d) if the Director is removed from office under section 8(2)(b).
 - (3) If the Director dies, the Director's personal representative is entitled to be paid any amount that would have been payable to the Director under this section.
 - (4) Payment of an entitlement under this section is to be based on the Director's ordinary remuneration.

10E Superannuation contributions

- (1) The Territory must, in respect of each quarter in a year, make a contribution for the benefit of the Director to a complying superannuation fund, complying superannuation scheme or an RSA that is equal to the minimum amount necessary to avoid an individual superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (2) The contributions must be made in compliance with the choice of fund requirements in Part 3A of the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (3) In this section:

complying superannuation fund, see section 7 of the *Superannuation Guarantee (Administration) Act 1992* (Cth).

complying superannuation scheme, see section 7 of the *Superannuation Guarantee (Administration) Act 1992* (Cth).

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

RSA, see section 8 of the *Retirement Savings Accounts Act 1997* (Cth).

27 Part 6 heading inserted

After section 37

insert

Part 6 Savings and transitional matters**28 Part 7 heading inserted**

After section 39

insert

Part 7 Transitional matters**29 Section 41 inserted**

After section 40

insert

41 Transitional matters for *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*

- (1) Despite their repeal, section 4(6) to (8), as in force immediately before the commencement, continue to apply to and in relation to a person who was appointed to be the Director before the commencement.
- (2) For section 4(6), as saved by subsection (1), the Director is taken to have been appointed as a Supreme Court Judge under section 32(1)(c) or (d) of the *Supreme Court Act 1979* on the day the Director was appointed to be the Director.
- (3) Part 2, Division 2, as inserted by the amending Act, does not apply to a person who was appointed to be the Director before the commencement.
- (4) In this section:

amending Act means the *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*.

commencement means the day on which section 23 of the amending Act commences.

Part 6 Amendment of Law Officers Act 1978**30 Act amended**

This Part amends the *Law Officers Act 1978*.

31 Part 1 heading inserted

Before section 1

insert

Part 1 Preliminary matters**32 Part 2 heading inserted**

After section 2

insert

Part 2 Attorney-General**33 Part 3 heading inserted**

After section 7

insert

Part 3 Solicitor for the Northern Territory**34 Section 8 amended (Solicitor for the Territory)**

(1) Section 8(3)

omit

for:

insert

for the following, and is, for that purpose, entitled to practise as a legal practitioner in any court and entitled to all the rights and privileges of a legal practitioner:

(2) Section 8(3)(h)

omit

or

(3) Section 8(3)(j)

omit

act,

insert

act.

(4) Section 8(3)

omit

all words from "and is" to "practitioner."

(5) Section 8(4)

omit, insert

(4) The CEO may do the following:

(a) act personally in the name of the Solicitor for the Northern Territory;

(b) by signed written instrument, authorise an officer of the Agency who is a legal practitioner to act in the name of the Solicitor for the Northern Territory generally or as otherwise provided for in the instrument.

(6) Section 8(5)

omit

all words from "of:" to "deemed"

insert

of the CEO or a person authorised under subsection (4)(b) is taken

- (7) Section 8(6)
omit, insert
- (6) A person who is authorised to act under subsection (4)(b):
- (a) is responsible to the CEO and, through the CEO, to the Attorney-General in relation to anything the person does under the authorisation; and
- (b) must comply with any directions given by the CEO.
- (8) Section 8(7)
omit
all words from "pursuant" to "deemed"
insert
under a direction given by the CEO is taken
- (9) Section 8(7) and (8)
omit
Secretary
insert
CEO
- (10) Section 8(8)
omit (all references)
his or her
- (11) Section 8(8)
omit
he or she
insert
the CEO

(12) Section 8(9)

omit, insert

(9) Despite subsection (5) but subject to subsection (8), the CEO, or a person authorised by the CEO under subsection (4)(b), is subject to the duties and obligations to which the CEO or person would be subject if the CEO or authorised person were a legal practitioner when:

(a) the CEO or person does, or omits to do, an act or thing in the name of the Solicitor for the Northern Territory; or

(b) another person does, or omits to do, an act or thing in the name of the Solicitor for the Northern Territory under the direction or authority of the CEO or person.

(13) Section 8(10)

omit

shall

insert

must

(14) Section 8(11)

omit

shall

insert

is to

(15) Section 8(12), definitions **Department** and **Secretary**

omit

(16) Section 8(12)

insert

CEO means the Chief Executive Officer.

35 Section 12 repealed (Judicial notice to be taken of signatures)

Section 12

repeal

36 Part 4 and Part 4, Division 1 headings inserted

Before section 13

insert

Part 4 Solicitor-General**Division 1 General matters****37 Section 13 amended (Office of Solicitor-General)**

(1) Section 13(1)

omit

such period as is

insert

the period

(2) Section 13(1)

omit

and on such

insert

and, subject to Division 2, on the

(3) Section 13(5) to (7)

omit

(4) Section 13(8) and (9)

omit

his or her

(5) Section 13(9)

omit

Notwithstanding

insert

Despite

(6) Section 13(9)

omit

shall retire

insert

retires

(7) Section 13(9)

omit

he or she

insert

the Solicitor-General

38 Part 4, Division 2, Part 5 and Part 6 heading inserted

After section 15

insert

Division 2 Long service leave and superannuation entitlements of Solicitor-General

15A Meaning of *ordinary remuneration*

- (1) Subject to subsection (2), for this Division the Solicitor-General's ***ordinary remuneration*** is the remuneration the Solicitor-General is entitled to receive for service as the Solicitor-General.
- (2) If the Solicitor-General has worked in a part-time capacity at any time during a period of service to which an entitlement to long service leave relates, the Solicitor-General's ordinary remuneration is to be determined on a pro rata basis, based on the hours for which the Solicitor-General was remunerated during the period of service.

15B Entitlement to long service leave

- (1) The Solicitor-General is entitled to 3 calendar months of long service leave after completing 10 years of service.
- (2) After completing 10 years of service, the Solicitor-General is entitled to 9 calendar days of long service leave for each subsequent year of completed service.
- (3) The Solicitor-General may accrue service in a full-time or part-time capacity or in a combination of those capacities.
- (4) The Solicitor-General does not accrue service when the Solicitor-General is:
 - (a) on leave without pay; or
 - (b) absent from work because of an injury for which the Solicitor-General is receiving workers' compensation payments.

15C Grants of long service leave

- (1) The Solicitor-General may take long service leave with the approval of the Attorney-General.
- (2) The Solicitor-General may, in respect of an entitlement to long service leave, be granted a period of long service leave that is:
 - (a) equal to the period of the entitlement and paid the Solicitor-General's ordinary remuneration during the period of leave; or
 - (b) twice as long as the period of the entitlement and paid the Solicitor-General's ordinary remuneration at half pay during the period of leave; or
 - (c) at least half as long as the period of the entitlement and paid:
 - (i) during the period of leave – the Solicitor-General's ordinary remuneration; and

- (ii) in respect of the remainder of the entitlement – a lump sum that is equal to the Solicitor-General's ordinary remuneration that would have been paid to the Solicitor-General if the entitlement had been taken as leave.

Example for subsection (2)(c)

A Solicitor-General entitled to 3 months of long service leave may elect to take 2 calendar months of long service leave and be paid a lump sum in lieu of taking the third month of the entitlement as long service leave. The Solicitor-General is paid the Solicitor-General's ordinary remuneration during the 2 month period of leave and a lump sum that is equal to the remuneration the Solicitor-General would have been paid during a third month of long service leave.

- (3) During a period of leave mentioned in subsection (2)(b), the Solicitor-General accrues service and service-based entitlements at half of the ordinary rate of accrual.

Note for subsection (3)

A service-based entitlement may include an entitlement to leave, including recreation or long service leave.

- (4) Long service leave may be granted in months and tenths of a month but may not be granted for a period of leave that is less than 7 days.
- (5) Weekends, public holidays and other days on which the Solicitor-General would not have ordinarily been required to work are part of long service leave and do not extend the period of leave.
- (6) The Solicitor-General may not be granted periods of long service leave that are separated by a Saturday, Sunday or public holiday.

15D Payment in lieu

- (1) The Solicitor-General is entitled to payment in lieu of long service leave on cessation of employment as follows:
 - (a) if the Solicitor-General has completed 10 or more years of service – payment in lieu of the Solicitor-General's unused entitlement to long service leave at the date of cessation;
 - (b) if the Solicitor-General has completed a total of 9 years of service – payment for 67.5 calendar days of long service leave;
 - (c) if the Solicitor-General has completed a total of 8 years of service – payment for 45 calendar days of long service leave;

- (d) if the Solicitor-General has completed a total of 7 years of service – payment for 22.5 calendar days of long service leave.
- (2) The Solicitor-General is not entitled to payment in lieu under subsection (1)(b) to (d) if the Solicitor-General is removed from office under section 15(b).
- (3) If the Solicitor-General dies, the Solicitor-General's personal representative is entitled to be paid any amount that would have been payable to the Solicitor-General under this section.
- (4) Payment of an entitlement under this section is to be based on the Solicitor-General's ordinary remuneration.

15E Superannuation contributions

- (1) The Territory must, in respect of each quarter in a year, make a contribution for the benefit of the Solicitor-General to a complying superannuation fund, complying superannuation scheme or an RSA that is equal to the minimum amount necessary to avoid an individual superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (2) The contributions must be made in compliance with the choice of fund requirements in Part 3A of the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (3) In this section:

complying superannuation fund, see section 7 of the *Superannuation Guarantee (Administration) Act 1992* (Cth).

complying superannuation scheme, see section 7 of the *Superannuation Guarantee (Administration) Act 1992* (Cth).

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

RSA, see section 8 of the *Retirement Savings Accounts Act 1997* (Cth).

Part 5 Signatures

15F Judicial notice to be taken of signatures

Judicial notice is to be taken in all courts of the signatures of the Attorney-General, the Solicitor-General and a person signing in the name of the Solicitor for the Northern Territory.

Part 6 Transitional matters

39 Section 17 inserted

After section 16

insert

17 Transitional matters for *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*

- (1) An authorisation under section 8(4) that is in effect immediately before the commencement is taken to be an authorisation made under section 8(4)(b) as in force after the commencement.
- (2) Despite their repeal, section 13(5) to (7), as in force immediately before the commencement, continue to apply to and in relation to a person who was appointed to be the Solicitor-General before the commencement.
- (3) For section 13(5), as saved by subsection (2), the Solicitor-General is taken to have been appointed as a Supreme Court Judge under section 32(1)(c) or (d) of the *Supreme Court Act 1979* on the day the Solicitor-General was appointed to be the Solicitor-General.
- (4) Part 4, Division 2, as inserted by the amending Act, does not apply to a person who was appointed to be the Solicitor-General before the commencement.
- (5) In this section:

amending Act means the *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*.

commencement means the day on which section 30 of the amending Act commences.

40 Act further amended

Schedule 3 has effect.

Part 7 Amendment of Independent Commissioner Against Corruption Act 2017

41 Act amended

This Part amends the *Independent Commissioner Against Corruption Act 2017*.

42 Section 116 amended (Conditions of appointment)

Section 116(1)

omit

The

insert

Subject to Division 1A, the

43 Part 7, Division 1A inserted

After section 122

insert

Division 1A Long service leave entitlements of ICAC**122A Meaning of *ordinary remuneration***

- (1) For this Division, subject to subsection (2), the ICAC's ***ordinary remuneration*** is the remuneration the ICAC is entitled to receive for service as the ICAC.
- (2) If the ICAC has worked in a part-time capacity at any time during a period of service to which an entitlement to long service leave relates, the ICAC's ordinary remuneration is to be determined on a pro rata basis, based on the hours for which the ICAC was remunerated during the period of service.

122B Entitlement to long service leave

- (1) The ICAC is entitled to 3 calendar months of long service leave after completing 10 years of service.
- (2) After completing 10 years of service, the ICAC is entitled to 9 calendar days of long service leave for each subsequent year of completed service.
- (3) The ICAC may accrue service in a full-time or part-time capacity or in a combination of those capacities.
- (4) The ICAC does not accrue service when the ICAC is:
 - (a) on leave without pay; or
 - (b) absent from work because of an injury for which the ICAC is receiving workers' compensation payments.

122C Grants of long service leave

- (1) The ICAC may take long service leave with the approval of the ICAC Minister.
- (2) The ICAC may, in respect of an entitlement to long service leave, be granted a period of long service leave that is:
 - (a) equal to the period of the entitlement and paid the ICAC's ordinary remuneration during the period of leave; or
 - (b) twice as long as the period of the entitlement and paid the ICAC's ordinary remuneration at half pay during the period of leave; or
 - (c) at least half as long as the period of the entitlement and paid:
 - (i) during the period of leave – the ICAC's ordinary remuneration; and
 - (ii) in respect of the remainder of the entitlement – a lump sum that is equal to the ICAC's ordinary remuneration that would have been paid to the ICAC if the entitlement had been taken as leave.

Example for subsection (2)(c)

An ICAC entitled to 3 months of long service leave may elect to take 2 calendar months of long service leave and be paid a lump sum in lieu of taking the third month of the entitlement as long service leave. The ICAC is paid the ICAC's ordinary remuneration during the 2 month period of leave and a lump sum that is equal to the remuneration the ICAC would have been paid during a third month of long service leave.

- (3) During a period of leave mentioned in subsection (2)(b), the ICAC accrues service and service-based entitlements at half of the ordinary rate of accrual.

Note for subsection (3)

A service-based entitlement may include an entitlement to leave, including recreation or long service leave.

- (4) Long service leave may be granted in months and tenths of a month but may not be granted for a period of leave that is less than 7 days.
- (5) Weekends, public holidays and other days on which the ICAC would not have ordinarily been required to work are part of long service leave and do not extend the period of leave.
- (6) The ICAC may not be granted periods of long service leave that are separated by a Saturday, Sunday or public holiday.

122D Payment in lieu

- (1) Subject to subsection (2), the ICAC is entitled to payment in lieu of long service leave on cessation of employment as follows:
 - (a) if the ICAC has completed 10 or more years of service – payment in lieu of the ICAC's unused entitlement to long service leave at the date of cessation;
 - (b) if the ICAC has completed a total of 9 years of service – payment for 67.5 calendar days of long service leave;
 - (c) if the ICAC has completed a total of 8 years of service – payment for 45 calendar days of long service leave;
 - (d) if the ICAC has completed a total of 7 years of service – payment for 22.5 calendar days of long service leave.
- (2) The ICAC is not entitled to payment in lieu under subsection (1)(b) to (d) if:
 - (a) the ICAC's appointment is terminated under section 120(4) following a suspension under section 120(1)(b), (c) or (d); or
 - (b) the ICAC's appointment ends because a circumstance mentioned in section 118(1)(c) applies in relation to the ICAC.
- (3) If the ICAC dies, the ICAC's personal representative is entitled to be paid any amount that would have been payable to the ICAC under this section.
- (4) Payment of an entitlement under this section is to be based on the ICAC's ordinary remuneration.

44 Part 10 inserted

After section 169

insert

Part 10 Transitional matters

Division 1 Transitional matters for Judicial and Other Officers' Entitlements Legislation Amendment Act 2023

170 Application of long service leave provisions

- (1) The following apply only to an ICAC who is appointed after the commencement of section 43 of the amending Act:
 - (a) section 116, as amended by the amending Act;
 - (b) Part 7, Division 1A.
- (2) In this section:

amending Act means the *Judicial and Other Officers' Entitlements Legislation Amendment Act 2023*.

Part 8 Repeal

45 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Supreme Court (Judges Pensions) Act 1980 further amended

section 12

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 3C(1)	his or her	the Judge's
section 3E(1)(a), at the end		and
section 3E(1)(b)	Commissioner of Taxation he or she	ATO the retired Judge or person
section 3E(1)	him or her	the retired Judge or person
section 4(1), (2) and (3)	Where	If
section 4(1)	not less than he or she per cent	at least the Judge %
section 4(2)	he or she (<i>all references</i>)	the Judge
section 4(2)(a)	terms of his or her upon his or her age;	Judge's terms of on age; and
section 4(2)(b)	upon his or her age;	on age; and
section 4(2)(c)	his or her so ceasing, not less than	cessation, at least
section 4(2)(e)	his or her period of	
section 4(3)(a)	his or her period	the Judge's period

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4(3)(a)(i)	his or her prior judicial service	service mentioned in section 3(2)
section 4(3)(a)(ii)	his or her appointment as a Judge until the upon his or her attaining	the day on which the Judge was appointed as a Judge until the day on which the on attaining
section 8(2)	Where his or her (<i>all references</i>)	If the Judge's
section 8(2)(b) and (c)	he or she	the Judge
section 9(3)	Where	If
section 9(3)	his or her (<i>all references</i>)	the Judge's
section 9(3)(b) and (c)	he or she	the Judge
section 11, heading	orphans	orphans'
section 11	shall	is to
section 13(1)(a) and (b)	he or she	the Attorney-General
section 13(1)(a)	him or her	the Attorney-General

Schedule 2 Supreme Court (Judges Long Leave Payments) Act 1980 further amended

section 22

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4(1)(a)	not less than	at least
section 4(1)(b)	he or she	the Judge
section 4(2)(b)	his or her such service such leave,	service taking leave,
section 4(3) and (4)	Where	If
section 4(3)(b)	the Judge's so ceasing, the period of his or her not less than	cessation, the period of the Judge's at least
section 4(5)	as his or her service such service such leave.	service taking leave.
section 5(2)(a) and (b)	where	if
section 5(3) and (4)	Where	If
section 5(4)	authorize	authorise
	all words from "such trustee" to "such trusts"	a trustee appointed by the Attorney-General to be held by the trustee on trust

Schedule 3 Law Officers Act 1978 further amended

section 40

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 5	pursuant to such other	under another
section 6	shall	is to
section 6(a), (b), (c), (d) and (e), at the end		and
section 6(d)	such other person as he or she	another person as the Attorney-General
section 6(e)	his or her he or she	the Attorney-General's the Attorney-General
section 6(f)	such	the
section 6(g)	such	any
section 14(a), (b) and (c), at the end		and
section 14(d)	whole paragraph	(d) is, for the purpose of exercising powers or performing functions under this Act, entitled to practice as a legal practitioner as if the Solicitor-General were holding an unrestricted practising certificate issued under the <i>Legal Profession Act 2006</i> ; and

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 14(e)	shall	must
section 15(a)	his or her office;	the office; or
section 15(c)	his or her <i>(all references)</i>	