

SUPREME COURT LEGISLATION (MISCELLANEOUS PROVISIONS) BILL 1993

EXPLANATORY NOTES

The objective of this Bill is to remove the ceiling on the number of judges that may be appointed to the Supreme Court.

A ceiling on the appointment of judges has existed since 1867 and can only be altered by legislation. Legislative changes have been necessary on at least eleven occasions since the establishment of the Supreme Court.

The Bill provides flexibility and responsiveness to the need for appointment of judges to the Supreme Court.

As the eligibility of a solicitor to be a judge of the Supreme Court has been addressed in the amendments removing the limit on the number of Supreme Court judges that may be appointed, the opportunity has also been taken in the Bill to ‘clean up’ the Legal Practitioners Acts. There are 4 such Acts that currently have substantive provisions —

- (a) *the Legal Practitioners Act 1905;*
- (b) *the Legal Practitioners Act Amendment Act 1938;*
- (c) *the Legal Practitioners Acts Amendment Act 1954;*
- (d) *The Legal Practitioners Acts Amendment Act 1968.*

The first of these is not affected by this Bill. The latter three Acts have been amended by omitting the reference in each to a collective title.

The 7 Legal Practitioner Acts referred to in Part 6 of the Bill have no current operation and are repealed.

PART 1 — PRELIMINARY

Clause 1 Short title of the Act.

PART 2 — AMENDMENT OF THE SUPREME COURT OF QUEENSLAND ACT 1991

Clause 2 states that the *Supreme Court Act 1991* is amended as set out in Part 2.

Clause 3 inserts a new section 12A which provides that the Governor in Council may, by commission, appoint a barrister or solicitor of at least 5 years' standing to be a judge. This section incorporates elements of section 8 of the *Supreme Court Act 1867* and section 2 of the *Legal Practitioners 1881* both of which are repealed by this Act.

PART 3 — AMENDMENT OF SUPREME COURT ACT 1967

Clause 4 states that the *Supreme Court Act 1867* is amended as set out in this Part.

Clause 5 omits section 8 of the *Supreme Court Act 1867* which provides that judges may be appointed.

PART 4 — REPEAL OF THE SUPREME COURT JUDGES APPOINTMENT ACT 1983

Clause 6 repeals the *Supreme Court Judges Appointment Act 1983*. This Act is repealed as it has no operation other than providing for the appointment of

judges and setting a maximum number. In its place, provision is now made for the appointment of judges in the new section 12A inserted in the *Supreme Court of Queensland Act 1991* by clause 3 of this Bill.

PART 5 — MINOR AMENDMENTS OF THE LEGAL PRACTITIONERS ACTS

Clauses 7-9 amend the *Legal Practitioners Act Amendment Act 1938*, the *Legal Practitioners Acts Amendment Act 1954* and the *Legal Practitioners Acts Amendment Act 1968* by omitting the reference in each to a collective title.

PART 6 — REPEAL OF ACTS

Clause 10 repeals the following Acts which have no current operation —

- (a) the *Legal Practitioners Act 1881*;
- (b) the *Legal Practitioners Acts Amendment Act 1946*;
- (c) the *Legal Practitioners Acts Amendment Act 1947*;
- (d) the *Legal Practitioners Acts Amendment Act 1961*;
- (e) the *Legal Practitioners Acts Amendment Act 1965*;
- (f) the *Legal Practitioners Acts Amendment Act 1974*;
- (g) the *Legal Practitioners Acts Amendment Act 1977*.