

South Australia

# Magistrates (Part-time Magistrates) Amendment Act 2006

An Act to amend the *Magistrates Act 1983*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Magistrates Act 1983*

- 4 Amendment of section 3—Interpretation
- 5 Amendment of section 5—Appointment of magistrates
- 6 Amendment of section 13—Remuneration of magistrates
- 7 Amendment of section 15—Recreation leave
- 8 Amendment of section 16—Sick leave
- 9 Amendment of section 18A—Concurrent appointments and outside employment etc

### Schedule 1—Transitional provision

- 1 Transitional provision
- 

**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Magistrates (Part-time Magistrates) Amendment Act 2006*.

### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Magistrates Act 1983*

### 4—Amendment of section 3—Interpretation

Section 3—after the definition of *the Chief Magistrate* insert:

*part-time magistrate* means—

- (a) a magistrate appointed on a part-time basis; or
- (b) a magistrate who performs the duties of his or her office on a part-time basis pursuant to an agreement under section 5;

### 5—Amendment of section 5—Appointment of magistrates

(1) Section 5—after subsection (2) insert:

- (2a) An appointment of a magistrate under this section will be taken to be on a full-time basis unless the instrument of appointment provides that the appointment is on a part-time basis.
- (2b) However, a magistrate not appointed on a part-time basis may, by written agreement with the Chief Magistrate made with the approval of the Attorney-General, perform the duties of his or her office on a part-time basis for a period specified in the agreement.
- (2c) An instrument appointing a magistrate on a part-time basis or an agreement under subsection (2b) must specify the hours of duty the magistrate will ordinarily be required to work, expressed as a proportion of the time a magistrate appointed on a full-time basis is ordinarily required to work.
- (2d) The hours of duty specified in an instrument of appointment or an agreement under subsection (2b) may be varied by written agreement between the magistrate and the Chief Magistrate made with the approval of the Attorney-General.

(2) Section 5(4)—delete subsection (4) and substitute:

- (4) The Attorney-General must, before making a recommendation for the appointment of a magistrate, consult with—
  - (a) the Chief Justice; and
  - (b) if the appointment is to be on a part-time basis—the Chief Magistrate,

in relation to the proposed appointment.

(3) Section 5—after subsection (6) insert:

- (7) An instrument of appointment of a magistrate may contain a condition requiring the duties of the magistrate to be performed wholly or predominantly at one or more specified places in accordance with such directions as the Chief Magistrate may give to the magistrate under section 8.

- (8) The Governor may, on the recommendation of the Attorney-General made with the concurrence of the Chief Magistrate, vary a condition of an appointment of a magistrate imposed under subsection (7).
- (9) A magistrate whose appointment is varied under subsection (8) must be notified in writing of the variation.

#### **6—Amendment of section 13—Remuneration of magistrates**

Section 13—after subsection (1a) insert:

- (1b) A stipendiary magistrate (whether appointed on a full-time or part-time basis) is, while performing the duties of his or her office on a part-time basis, entitled to remuneration on a pro-rata basis in respect of his or her hours of duty at the rate determined by the Remuneration Tribunal under this section in relation to a stipendiary magistrate appointed on a full-time basis.

#### **7—Amendment of section 15—Recreation leave**

- (1) Section 15(1)—delete "A" and substitute:

Subject to this section, a

- (2) Section 15—after subsection (2) insert:

- (2a) A part-time stipendiary magistrate is entitled to pro-rata recreation leave in respect of his or her hours of duty.

#### **8—Amendment of section 16—Sick leave**

- (1) Section 16(1)—delete "A" and substitute:

Subject to this section, a

- (2) Section 16—after subsection (2) insert

- (2a) A part-time stipendiary magistrate is entitled to pro-rata sick leave in respect of his or her hours of duty.

#### **9—Amendment of section 18A—Concurrent appointments and outside employment etc**

Section 18A—after subsection (3) insert:

- (4) A part-time magistrate must not—
  - (a) practise the profession of the law for fee or reward; or
  - (b) without the written approval of the Chief Justice given with the concurrence of the Chief Magistrate—
    - (i) practise any other profession for remuneration; or
    - (ii) carry on any trade or business; or
    - (iii) hold any paid office in connection with a business; or
    - (iv) engage in any form of work for remuneration.

- (5) The Chief Justice may, after consultation with the Chief Magistrate, vary or revoke an approval under subsection (4) at any time.
- (6) The Chief Justice must notify the Attorney-General of an approval or variation or revocation of an approval given under this section.
- (7) Subsection (4) does not apply to an acting magistrate to the extent specified in the magistrate's instrument of appointment.

## **Schedule 1—Transitional provision**

### **1—Transitional provision**

The amendments made to section 18A of the *Magistrates Act 1983* by this Act apply in relation to magistrates whether appointed before or after the commencement of this Act.