

House of Assembly—No 109

As laid on the table and read a first time, 16 October 2019

South Australia

**Supreme Court (Court of Appeal) Amendment
Bill 2019**

A BILL FOR

An Act to amend the *Supreme Court Act 1935* and to make related amendments to various other Acts.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Supreme Court (Court of Appeal) Amendment Act 2019*.

2—Commencement

This Act comes 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 *Supreme Court Act 1935*

4—Amendment of section 5—Interpretation

(1) Section 5(1)—after the definition of *court* insert:

Court of Appeal means the Division of the Supreme Court established under section 19A;

15 (2) Section 5(1), definition of *Full Court*—delete the definition

(3) Section 5(1), definition of *judge*—after "Chief Justice" insert:

, the President

(4) Section 5(1)—after the definition of *pleading* insert:

President means the President of the Court of Appeal;

5—Insertion of section 6A

After section 6 insert:

6A—Divisions of Supreme Court

The Supreme Court is constituted of the General Division and the Court of Appeal.

6—Amendment of section 7—Judicial officers of the court

Section 7(1)—delete subsection (1) and substitute:

(1) The General Division of the court consists of—

- (a) the Chief Justice; and
- (b) the puisne judges of the court that are not appointed to the Court of Appeal; and
- (c) the masters; and
- (d) the judicial registrars.

(1a) The Court of Appeal consists of—

- (a) the Chief Justice; and
- (b) the President; and
- (c) the puisne judges of the court that are appointed to the Court of Appeal; and
- (d) the masters; and
- (e) the judicial registrars.

7—Amendment of section 8—Qualifications for appointment as judges and masters

Section 8—after subsection (1) insert:

- (1a) A person is not qualified for appointment as President unless the person is a practitioner of the court of not less than 12 years' standing or a puisne judge of the court.

8—Amendment of section 9—Appointments to the court

Section 9(1)—after "judge of the court" insert:

or judge of the Court of Appeal

9—Insertion of section 9B

After section 9 insert:

9B—President

5 The President is a judge of the Supreme Court and is responsible, subject to the Chief Justice’s directions, for the administration of the Court of Appeal.

10—Substitution of section 10

Section 10—delete the section and substitute:

10—Acting Chief Justice and Acting President

- 10 (1) If—
- (a) the Chief Justice is absent or, for any reason, is unable for the time being to carry out the duties of the office; or
 - (b) the office of the Chief Justice becomes vacant, the Governor may appoint—
 - 15 (c) the President; or
 - (d) if the President is absent or, for any reason, is unable for the time being to carry out the duties of the office—a puisne judge of the court,
- 20 to be Acting Chief Justice until the Chief Justice returns to official duties or a person is appointed to the office of the Chief Justice (as the case requires).

- (2) If—
- (a) the President is absent or, for any reason, is unable for the time being to carry out the duties of the office; or
 - 25 (b) the office of the President becomes vacant, the Governor may appoint a puisne judge of the court to be Acting President until the President returns to official duties or a person is appointed to the office of the President (as the case requires).

- 30 (3) Any power or duty attached to the office of the Chief Justice or President by or under this or any other Act—
- (a) on the appointment of a judge to be Acting Chief Justice or Acting President, devolves on the judge so appointed; or
 - (b) if no such appointment is made, devolves—
 - 35 (i) during the absence or inability of the Chief Justice or until a vacancy in the office of Chief Justice is filled—

- (A) on the President; or

(B) if the President is absent or, for any reason, is unable for the time being to carry out the duties of the office—on the most senior of the puisne judges appointed to the Court of Appeal who is available to undertake those responsibilities; or

(ii) during the absence or inability of the President or until a vacancy in the office of President is filled—on the most senior of the puisne judges appointed to the Court of Appeal who is available to undertake those responsibilities.

11—Amendment of section 11—Acting judges and acting masters

(1) Section 11(1)(a)—after "acting judge" insert:

(either of the court or of the Court of Appeal)

(2) Section 11(1a)—after "acting judge" insert:

(of the court or of the Court of Appeal)

(3) Section 11(6)—delete subsection (6) and substitute:

(6) A District Court Judge or a Deputy President of the South Australian Civil and Administrative Tribunal or of the South Australian Employment Tribunal may not be appointed as an acting judge under subsection (1) except on the recommendation of the Chief Justice made with the concurrence of the Chief Judge of the District Court or of the President of the relevant Tribunal (as the case requires).

12—Amendment of section 12—Remuneration of judges and masters

Section 12(1)—after "Chief Justice" insert:

, the President

13—Substitution of heading to Part 2 Division 1

Heading to Part 2 Division 1—delete the heading and substitute:

Division 1—General Division

14—Amendment of section 17—General jurisdiction

(1) Section 17(2)—delete "There shall be vested in the court" and substitute:

Subject to subsection (3), there is vested in the court in its General Division

(2) Section 17—after subsection (2) insert:

(3) The court does not, in its General Division, have jurisdiction in respect of the matters that are, under section 19B, to be heard and determined by the Court of Appeal.

15—Insertion of Part 2 Division 1A

After section 19 insert:

Division 1A—Court of Appeal

19A—Establishment of Court of Appeal

5 The Court of Appeal is established as a division of the Supreme Court.

19B—Jurisdiction

The Court of Appeal has jurisdiction to hear and determine—

- 10 (a) subject to this or any other Act, all appeals from a single judge sitting in court as a judge; and
- (b) subject to this or any other Act, and to the rules of court—all appeals from a single judge sitting in chambers; and
- (c) all rules and orders to show cause returnable before the Court of Appeal; and
- 15 (d) all questions of law referred to or reserved for the consideration of, or directed to be argued before the Court of Appeal; and
- (e) all causes and matters which are required to be heard or determined by the Court of Appeal—
 - 20 (i) by rules of court made by any 3 or more judges of the Court of Appeal with the concurrence of the Chief Justice; or
 - (ii) by the express provision of any other Act.

19C—General requirements as to constitution of Court of Appeal

- 25 (1) Subject to this or any other Act, and to the rules of court, the Court of Appeal will be constituted of not less than 3 judges when hearing and determining any matter.
- 30 (2) If, in accordance with any Act or rules of court, the Court of Appeal may be constituted by 2 judges, a decision of the Court is to be in accordance with the opinion of those judges or, if the judges are divided in opinion, the proceedings are to be reheard and determined by the Court of Appeal constituted by 3 judges (including, if practicable, the 2 judges who first heard the proceedings).

19D—Powers

In hearing and determining matters within the jurisdiction conferred by section 19B, the Court of Appeal has and may exercise any jurisdiction or powers—

- (a) that the court has in its General Division; or

- (b) that were exercisable by the Full Court of the Supreme Court immediately before the commencement of section 4(2) of the *Supreme Court (Court of Appeal) Amendment Act 2019*.

5 **16—Amendment of section 45—Time and place of sittings**

- (1) Section 45(3)—after "court" insert:

in its General Division

- (2) Section 45—after subsection (3) insert:

- 10 (3a) The Court of Appeal will sit at such times and places as the President may direct.

17—Substitution of sections 47 and 48

Sections 47 and 48—delete the sections and substitute:

47—Distribution of business

- (1) If—

- 15 (a) the Chief Justice and the President agree that—

(i) the Court of Appeal needs an acting judge and that a judge, or acting judge, in the General Division could be available to act as a judge in the Court of Appeal for a suitable period; or

20 (ii) the General Division needs an acting judge and that the President or another judge, or acting judge, in the Court of Appeal could be available to act as a judge in the General Division for a suitable period; and

- 25 (b) the particular judge or acting judge agrees to undertake such acting duties,

the Chief Justice may, by instrument in writing, authorise the judge to undertake such acting duties for a period specified in the instrument of appointment.

- 30 (2) Subject to subsections (3) and (4), a judge may not be appointed to act in another division of the court in accordance with this section for a period exceeding 12 months.

- 35 (3) A judge who has been appointed to act in another division of the court under this section for a period of 12 months may, if the Attorney-General consents, be reappointed for a further period not exceeding 12 months.

- 40 (4) A judge appointed to act in another division of the court under this section may, despite the expiration of the period of the acting appointment, complete the hearing of any proceedings part-heard by the judge before the expiration of that period and, in relation to any such proceedings, will be deemed to continue as an acting judge in that division of the court.

48—Jurisdiction of single judge, master, etc

- (1) Subject to this or any other Act, and to the rules of court, the jurisdiction vested in, or exercisable by the court, may be exercised by 1 or more judges sitting in court.
- (2) The jurisdiction of the court may be exercised—
- (a) by a judge in chambers; or
 - (b) by a master or judicial registrar,
- to the extent authorised by this or any other Act, or by the rules of court.

18—Amendment of section 49—Questions of law reserved for Court of Appeal

Section 49(1)—delete "Full Court" and substitute:

Court of Appeal

19—Amendment of section 50—Appeals

Section 50—delete "Full Court" wherever occurring and substitute, in each case:

Court of Appeal

20—Repeal of Part 3A

Part 3A—delete the Part

21—Amendment of section 72—Rules of court

- (1) Section 72(1)—delete "Rules of court" and substitute:

Subject to subsection (1a), rules of court

- (2) Section 72—after subsection (1) insert:

- (1a) If any rules of court relate only to the practice and procedure of the Court of Appeal, the rules must be made by any 3 or more judges of the Court of Appeal.

Schedule 1—Related amendments and transitional provisions etc

Part 1—Related amendments

Division 1—Amendment of *Aboriginal Heritage Act 1988*

1—Amendment of section 31—Acquisition of objects and records

Section 31(2)—delete "Land and Valuation" and substitute:

Supreme

Division 2—Amendment of *Aboriginal Lands Trust Act 2013*

2—Amendment of section 54—Arbitration

Section 54(4)(c)—delete "Full Court of the Supreme Court" and substitute:
Court of Appeal

5 **Division 3—Amendment of *Acts Interpretation Act 1915***

3—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *the Commonwealth* insert:
Court of Appeal means the Court of Appeal Division of the Supreme Court;

10 **Division 4—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981***

4—Amendment of section 15—Governor may grant certain land, in fee simple, to Anangu Pitjantjatjara Yankunytjatjara

Section 15(4)—delete "Land and Valuation" and substitute:
Supreme

15 **5—Amendment of section 20—Mining operations on the lands**

Section 20(12)(b)—delete "Full Court of the Supreme Court" and substitute:
Court of Appeal

6—Amendment of Schedule 3—Rules of election under section 9

20 Schedule 3, clause 27—delete "Full Court of the Supreme Court" and substitute:
Court of Appeal

Division 5—Amendment of *Coast Protection Act 1972*

7—Amendment of section 4—Interpretation

Section 4, definition of *the Court*—delete "Land and Valuation" and substitute:
Supreme

25 **Division 6—Amendment of *Constitution Act 1934***

8—Amendment of section 76—Definitions

Section 76(1), definition of *the Chief Justice*—delete "a puisne judge" and substitute:
any other judge of the Supreme Court

9—Amendment of section 86—Order of the Commission

30 (1) Section 86(2)—delete "Full Court of the Supreme Court" and substitute:
Court of Appeal

(2) Section 86(7)—delete "Full Court" and substitute:

Court of Appeal

(3) Section 86(9)—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

5 **Division 7—Amendment of *Coroners Act 2003***

10—Amendment of section 27—Appeals from findings made on inquests

Section 27(2)—delete "Full Court" and substitute:

Court of Appeal

Division 8—Amendment of *Criminal Law (High Risk Offenders) Act 2015*

10 **11—Amendment of section 22—Appeals**

Section 22(1), (3) and (4)—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

Division 9—Amendment of *Criminal Procedure Act 1921*

15 **12—Amendment of section 4—Interpretation**

Section 4(1), definition of *Full Court*—delete the definition

13—Amendment of section 117—Forum for trial

Section 117(3)(a)—after subparagraph (iii) insert:

(iv) where the case is of a kind prescribed by the regulations;

20 **14—Amendment of section 146—Retrial of relevant offence of which person previously acquitted where acquittal tainted**

Section 146—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

25 **15—Amendment of section 147—Retrial of Category A offence of which person previously acquitted where there is fresh and compelling evidence**

Section 147—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

30 **16—Amendment of section 148—Circumstances in which person may be charged with administration of justice offence relating to previous acquittal**

Section 148—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

17—Amendment of section 149—Prohibition on making certain references in retrial

Section 149—delete "Full Court" and substitute:

Court of Appeal

5 **18—Amendment of section 152—Court to decide according to opinion of majority**

Section 152—delete "Full Court" and substitute:

Court of Appeal

19—Amendment of section 153—Reservation of relevant questions

10 Section 153—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

20—Amendment of section 154—Case to be stated by trial judge

Section 154—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

15 **21—Amendment of section 155—Powers of Court of Appeal on reservation of question**

Section 155—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

22—Amendment of section 157—Right of appeal in criminal cases

20 Section 157—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

23—Amendment of section 158—Determination of appeals in ordinary cases

Section 158—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

25 **24—Amendment of section 159—Second or subsequent appeals**

Section 159—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

25—Amendment of section 160—Powers of Court in special cases

Section 160—delete "Full Court" wherever occurring and substitute in each case:

30 Court of Appeal

26—Amendment of section 161—Right of appeal against ancillary orders

Section 161—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

27—Amendment of section 162—Revesting and restitution of property on conviction

Section 162—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

5 **28—Amendment of section 163—Jurisdiction of Court of Appeal**

(1) Section 163—delete "Full Court" first occurring and substitute:

Court of Appeal Division

(2) Section 163—delete "Full Court" second occurring and substitute:

Court of Appeal

10 **29—Amendment of section 164—Enforcement of orders**

Section 164—delete "Full Court" and substitute:

Court of Appeal

30—Amendment of section 165—Appeal to Court of Appeal

15 (1) Section 165(1) and (2)—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

(2) Section 165(3) and (4)—delete subsections (3) and (4)

31—Amendment of section 166—Supplemental powers of Court

Section 166—delete "Full Court" wherever occurring and substitute in each case:

20 Court of Appeal

32—Amendment of section 167—Presence of appellant or respondent on hearing of appeal

Section 167(3)—delete "Full Court" and substitute:

Court of Appeal

25 **33—Amendment of section 168—Director of Public Prosecutions to be represented**

Section 168—delete "Full Court" and substitute:

Court of Appeal

30 **34—Amendment of section 170—Admission of appellant to bail and custody when attending Court**

Section 170—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

35—Amendment of section 171—Duties of registrar with respect to notices of appeal etc

Section 171—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

5 **36—Amendment of section 172—Notes of evidence on trial**

Section 172(1)(a)—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

37—Amendment of section 173—References by Attorney-General

10 Section 173—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

Division 10—Amendment of *Crown Land Management Act 2009*

38—Amendment of section 3—Interpretation

(1) Section 3(1), definition of *Court*—delete the definition and substitute:

15 *Court* means the Supreme Court;

(2) Section 3(1), definition of *Land and Valuation Court*—delete the definition;

Division 11—Amendment of *District Court Act 1991*

39—Amendment of section 43—Right of appeal

Section 43(2)(c)—delete "Full Court of the Supreme Court" and substitute:

20 Court of Appeal

40—Amendment of section 44—Reservation of questions of law

Section 44(2)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

Division 12—Amendment of *Dust Diseases Act 2005*

25 **41—Amendment of section 11A—Right of appeal from SAET**

Section 11A(b)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

Division 13—Amendment of *Encroachments Act 1944*

42—Amendment of section 2—Interpretation

30 Section 2, definition of *the Land and Valuation Court*—delete the definition

43—Amendment of section 3—Jurisdiction

Section 3—delete "(excepting section 11 of this Act) shall be exercised by the Land and Valuation Court" and substitute:

will (subject to section 11) be exercised by the Supreme Court

5 **Division 14—Amendment of *Environment, Resources and Development Court Act 1993***

44—Amendment of section 30—Right of appeal

Section 30(1)(e)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

10 **45—Amendment of section 31—Reservation of questions of law**

Section 31(1)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

Division 15—Amendment of *Evidence Act 1929*

46—Amendment of section 69B—Appeals

15 Section 69B(1)—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

Division 16—Amendment of *Federal Courts (State Jurisdiction) Act 1999*

47—Amendment of section 6—Rights and liabilities declared in certain cases

Section 6(b)—delete "Full Court of the Supreme Court" and substitute:

20 Court of Appeal

Division 17—Amendment of *Highways Act 1926*

48—Amendment of section 30B—Provision for compensation

Section 30B(2)—delete "Land and Valuation Court constituted under the *Supreme Court Act 1935*" and substitute:

25 Supreme Court

Division 18—Amendment of *Historic Shipwrecks Act 1981*

49—Amendment of section 20—Power of Minister to vest property in historic shipwrecks and relics in the Crown

Section 20(4) and (5)—delete "Land and Valuation Court" wherever occurring and substitute in each case:

30 Supreme Court

Division 19—Amendment of *Judges' Pensions Act 1971*

50—Amendment of section 4—Interpretation

Section 4(1), definition of *Judge*, (a)—after "Chief Justice" insert:
 , the President

5 **Division 20—Amendment of *Judicial Administration (Auxiliary Appointments and Powers) Act 1988***

51—Amendment of section 2—Interpretation

Section 2, definition of *judicial office*, (a)—after "Supreme Court" insert:
 (including a Judge of the Court of Appeal Division of the Supreme Court)

10 **Division 21—Amendment of *Judicial Conduct Commissioner Act 2015***

52—Amendment of section 29—Judicial review

- (1) Section 29(1)—delete "Full Court" and substitute:
 Court of Appeal
- (2) Section 29(2)—delete subsection (2)

15 **Division 22—Amendment of *Land Acquisition Act 1969***

53—Amendment of section 6—Interpretation

Section 6(1), definition of *Court*—delete "Land and Valuation Court" and substitute:
 Supreme Court

54—Amendment of section 15—Acquisition by agreement etc

20 Section 15(4a)(b)—delete "Court (ie the Land and Valuation Court)" and substitute:
 Supreme Court

Division 23—Amendment of *Liquor Licensing Act 1997*

55—Amendment of section 27—Appeal from orders and decisions of the Court

- 25 (1) Section 27(1) and (5)—delete "Supreme Court" wherever occurring and substitute in
 each case:
 Court of Appeal
- (2) Section 27(4)—delete "Full Court" and substitute:
 Court of Appeal

56—Substitution of section 28

Section 28—delete the section and substitute:

28—Reference of question of law

The Court may refer a question of law for determination by the Court of Appeal.

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Division 24—Amendment of *Local Government Act 1999*

57—Amendment of section 4—Interpretation

Section 4(1), definition of *Land and Valuation Court*—delete the definition

58—Amendment of section 210—Conversion of private road to public road

Section 210(3)—delete "Land and Valuation Court" and substitute:

Supreme Court

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59—Amendment of section 294—Power to enter and occupy land in connection with an activity

Section 294(3)(a)—delete "Land and Valuation Court" and substitute:

Supreme Court

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Division 25—Amendment of *Local Government (Elections) Act 1999*

60—Amendment of section 77—Reference of question of law

Section 77—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

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Division 26—Amendment of *Magistrates Court Act 1991*

61—Amendment of section 38—Minor civil actions

Section 38(9)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

62—Amendment of section 40—Right of appeal

Section 40(3)—delete "Full Court" and substitute:

Court of Appeal

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63—Amendment of section 42—Appeals

- (1) Section 42(2)(ab)—delete "Full Court of the Supreme Court with the permission of the Full Court" and substitute:

Court of Appeal with the permission of the Court of Appeal

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- (2) Section 42(2)(b)—delete "Full Court" and substitute:

Court of Appeal

(3) Section 42(2a) and (2b)—delete subsections (2a) and (2b)

(4) Section 42(5a)—delete "Full Court" wherever occurring and substitute in each case:

Court of Appeal

64—Amendment of section 43—Reservation of questions of law

5 Section 43(2)(b)—delete "Full Court" and substitute:

Court of Appeal

Division 27—Amendment of *Maralinga Tjarutja Land Rights Act 1984*

65—Amendment of section 21—Mining operations on the lands

10 (1) Section 21(13)(a)—delete "(being a Judge upon whom the jurisdiction of the Land and Valuation Court is conferred)"

(2) Section 21(14)(b)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

Division 28—Amendment of *Mining Act 1971*

66—Amendment of section 6—Interpretation

15 Section 6(1), definition of *the Land and Valuation Court*—delete the definition

67—Amendment of section 62A—Right to require acquisition of land

Section 62A(1)—delete "Land and Valuation" and substitute:

Supreme

Division 29—Amendment of *Native Vegetation Act 1991*

20 **68—Amendment of section 32—Appeals**

Section 32—delete "Land and Valuation" wherever occurring and substitute in each case:

Supreme

Division 30—Amendment of *Oaths Act 1936*

25 **69—Amendment of section 7—Oaths to be taken by judicial officers**

(1) Section 7(1)(a)—after "Chief Justice," insert:

President,

(2) Section 7(2), (3) and (3a)—delete subsections (2), (3) and (3a) and substitute:

(2) The oaths to be taken under this section must be taken—

- 5 (a) in the case of the oaths to be taken by the Chief Justice, the President or the puisne judges of the Supreme Court—before the Governor or, if the Governor so determines (or in the absence of a determination by the Governor), by the most senior judge of the Supreme Court that is available to take the oath;
- 10 (b) in the case of the oaths to be taken by any other judicial officer to whom this section applies (other than a justice of the peace)—by the most senior judge of the Supreme Court that is available to take the oath.

Division 31—Amendment of *Pastoral Land Management and Conservation Act 1989*

70—Amendment of section 39—Compensation

Section 39(2)(a)—delete "Land and Valuation" and substitute:

Supreme

71—Amendment of Schedule—Transitional provisions

Schedule, clause 6(4)(c)—delete "Land and Valuation" and substitute:

Supreme

Division 32—Amendment of *Petroleum and Geothermal Energy Act 2000*

72—Amendment of section 4—Interpretation

Section 4(1), definition of *relevant court*, (b)—delete "Land and Valuation" and substitute:

Supreme

73—Amendment of section 43—Royalty on regulated resources

Section 43(10)—delete "Land and Valuation" and substitute:

Supreme

74—Amendment of section 59—Relationship with other licences

Section 59(5) and (6)—delete "Land and Valuation" wherever occurring and substitute in each case:

Supreme

75—Amendment of section 59E—Relationship with other licences

Section 59E(5) and (6)—delete "Land and Valuation" wherever occurring and substitute in each case:

Supreme

76—Amendment of section 79—Access to natural reservoir

Section 79(6)—delete "Land and Valuation" and substitute:
Supreme

Division 33—Amendment of *Remuneration Act 1990*

5 **77—Amendment of section 13—Determination of remuneration of judges,
magistrates and certain others**

Section 13(b)—delete paragraph (b) and substitute:

- 10 (b) the President of the Court of Appeal;
(ba) the Puisne Judges of the Supreme Court that are appointed to the
Court of Appeal;
(bb) the other Puisne Judges of the Supreme Court;

Division 34—Amendment of *Sentencing Act 2017*

78—Amendment of section 65—Appeals

15 Section 65(1), (3) and (4)—delete "Full Court" wherever occurring and substitute in
each case:

Court of Appeal

**Division 35—Amendment of *South Australian Civil and Administrative
Tribunal Act 2013***

79—Amendment of section 26—Determination of questions of law

20 Section 26(2)(b)—delete "Supreme Court for decision by the Full Court of the
Supreme Court" and substitute:

Court of Appeal for determination

80—Amendment of section 50—Conferences

25 Section 50(9)—delete "Supreme Court for decision by the Full Court of the Supreme
Court" and substitute:

Court of Appeal for determination

81—Amendment of section 71—Appeals

- (1) Section 71(1)(a)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

- 30 (2) Section 71(1a)—delete "Full Court under subsection (1) will instead go to a single
Judge" and substitute:

Court of Appeal under subsection (1) will instead go to a single judge in the
General Division of the Supreme Court

82—Amendment of section 72—Reservation of questions of law

(1) Section 72(1)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

(2) Section 72(2)—delete "Supreme Court" and substitute:

Court of Appeal

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Division 36—Amendment of *South Australian Employment Tribunal Act 2014*

83—Amendment of section 22—Determination of questions of law

Section 22(2)(b)—delete "Supreme Court for decision by the Full Court of the Supreme Court" and substitute:

Court of Appeal for determination

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84—Amendment of section 68—Final appeal to Court of Appeal

(1) Section 68(1)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

(2) Section 68(2)—delete "a Judge of the Supreme Court" and substitute:

the Court of Appeal

(3) Section 68(3)—delete "Full Court of the Supreme Court under this section, the Full Court of the Supreme Court" and substitute:

Court of Appeal under this section, the Court of Appeal

(4) Section 68(3)(b)—delete "Full Court" and substitute:

Court of Appeal

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85—Amendment of section 70—Reservation of questions of law

(1) Section 70(1)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

(2) Section 70(2)—delete "Supreme Court" and substitute:

Court of Appeal

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Division 37—Amendment of *Survey Act 1992*

86—Amendment of section 51—Surveys within Confused Boundary Area

Section 51—delete "Land and Valuation" wherever occurring and substitute in each case:

Supreme

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Division 38—Amendment of *Victims of Crime Act 2001*

87—Amendment of section 24—Appeals

(1) Section 24(1)—delete "Full Court of the Supreme Court" and substitute:

Court of Appeal

5 (2) Section 24(3)—delete "Supreme Court" and substitute:

Court of Appeal

Division 39—Amendment of *Youth Court Act 1993*

88—Amendment of section 22—Appeals

Section 22(2), (2a) and (2b)—delete subsections (2), (2a) and (2b) and substitute:

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(2) The appeal lies—

(a) if the judgment is given by the Judge of the Court—

(i) in the case of an interlocutory judgment—to a single Judge in the General Division of the Supreme Court; or

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(ii) in any other case—to the Court of Appeal; or

(b) if the judgment is given by a magistrate or judicial registrar—

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(i) in the case of an interlocutory judgment—to the Judge of the Court; or

(ii) in the case of an action relating to a major indictable offence—to the Court of Appeal; or

(iii) in any other case—to the Supreme Court constituted of a single Judge; or

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(c) if the judgment (including an interlocutory judgment) is given by a special justice—to a single Judge in the General Division of the Supreme Court.

Part 2—Transitional provisions etc

89—Interpretation of Acts and instruments

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The following provisions apply to the interpretation of Acts and instruments (whether of a legislative character or not):

(a) a reference to the Full Court of the Supreme Court will be construed as a reference to the Court of Appeal Division of the Supreme Court;

(b) a reference to the Land and Valuation Court will be construed as a reference to the Supreme Court.

90—Initial remuneration

Despite section 13 of the *Remuneration Act 1990*, the Governor may determine the initial remuneration payable to—

- (a) the person appointed as President of the Court of Appeal on the commencement of Part 2 of this Act; and
- (b) the puisne judges who are, on the commencement of Part 2 of this Act, appointed to the Court of Appeal,

(but nothing prevents the Remuneration Tribunal making subsequent determinations in relation to the remuneration of such persons).

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