

## Legislative Council

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South Australia

# Courts Administration (Miscellaneous) Amendment Bill 2023

A BILL FOR

An Act to amend the *Courts Administration Act 1993*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement

### Part 2—Amendment of *Courts Administration Act 1993*

- 3 Amendment of section 7—Composition of the Council
- 4 Amendment of section 9—Proceedings and decisions of the Council
- 5 Repeal of section 13
- 6 Amendment of section 14—Additional reports
- 7 Amendment of section 16—State Courts Administrator
- 8 Amendment of section 21B—Application of Public Sector Act and Superannuation Act
- 9 Insertion of Part 4A
  - Part 4A—Reporting
    - 23A Annual report

### Schedule 1—Transitional provision

- 1 Annual report
- 

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

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Courts Administration (Miscellaneous) Amendment Act 2023*.

### 2—Commencement

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

## Part 2—Amendment of *Courts Administration Act 1993*

### 3—Amendment of section 7—Composition of the Council

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

- (1) The Council consists of—
  - (a) the Chief Justice of the Supreme Court; and
  - (b) the Chief Judge of the District Court; and
  - (c) the Chief Magistrate of the Magistrates Court; and
  - (d) the Judge of the Youth Court, appointed by the Governor in accordance with subsection (1a); and
  - (e) the State Coroner, appointed by the Governor in accordance with subsection (1a); and
  - (f) the Senior Judge of the Environment, Resources and Development Court, appointed by the Governor in accordance with subsection (1a); and
  - (g) 2 members appointed by the Governor with the concurrence of the members referred to in the preceding paragraphs (being persons with extensive experience in human resources management, finance or public administration).
- (1a) A person appointed to an office referred to in subsection (1)(d), (e) or (f) may only be appointed as a member of the Council—
  - (a) on the written request of the person; and
  - (b) with the concurrence of the Chief Justice of the Supreme Court.
- (1b) A person who is, or who was within the 2 years immediately preceding appointment, the Administrator or a member of the staff of the Council cannot be appointed as a member of the Council under subsection (1)(g).
- (1c) A member of the Council appointed under subsection (1)(g) holds office on conditions, and for a term (not exceeding 5 years), specified in the instrument of appointment (but, on completion of a term of appointment, is eligible for reappointment).
- (1d) The Governor may, with the concurrence of the members referred to in subsection (1)(a), (b) and (c), appoint a person to be the deputy of a member of the Council appointed under subsection (1)(g) (and the deputy may act as a member of the Council during any period of absence of the member in relation to whom the deputy has been appointed).

- (1e) The office of a member of the Council appointed under subsection (1)(d), (e) or (f) becomes vacant if the member—
  - (a) ceases to be the Judge of the Youth Court, State Coroner or Senior Judge of the Environment, Resources and Development Court (as the case requires); or
  - (b) is removed from office by the Governor at the request of the Chief Justice; or
  - (c) resigns by written notice to the Governor.
- (1f) The office of a member of the Council appointed under subsection (1)(g) becomes vacant if the member—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice to the Governor; or
  - (d) is convicted of—
    - (i) an indictable offence against the law of this State; or
    - (ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or
    - (iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding paragraph; or
  - (e) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or
  - (f) is removed from office by the Governor under subsection (1g).
- (1g) The Governor may remove a member of the Council appointed under subsection (1)(g) from office—
  - (a) for misconduct or conduct that brings the Council into disrepute; or
  - (b) for breach of, or non-compliance with, a condition of appointment; or
  - (c) if the member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
  - (d) if the member has been disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
  - (e) if the member has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily; or
  - (f) for incompetence or neglecting the duties of the position; or
  - (g) any other reason the Governor thinks fit.

- (1h) A member of the Council appointed under subsection (1)(g) is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.
- (2) Section 7(2)—after "Council" first occurring insert:  
(other than a member appointed under subsection (1)(g))
- (3) Section 7(3)—delete "he or she" and substitute:  
the associate member

#### **4—Amendment of section 9—Proceedings and decisions of the Council**

- (1) Section 9, heading—delete "Proceedings and decisions" and substitute:  
Procedures
- (2) Section 9(2)—delete "one other member of the Council" and substitute:  
2 other members of the Council (1 of whom must be a member of the Council other than a member appointed under section 7(1)(d), (e), (f) or (g))
- (3) Section 9(3)—delete "one other member of the Council" and substitute:  
2 other members of the Council (1 of whom must be a member of the Council other than a member appointed under section 7(1)(d), (e), (f) or (g))

#### **5—Repeal of section 13**

Section 13—delete section 13

#### **6—Amendment of section 14—Additional reports**

- (1) Section 14, heading—delete "Additional reports" and substitute:  
Council to provide reports to Attorney-General
- (2) Section 14(1)—delete "further"

#### **7—Amendment of section 16—State Courts Administrator**

- (1) Section 16(2)—after "Governor" insert:  
on the recommendation of the Council
- (2) Section 16(4)—delete subsection (4)
- (3) Section 16(5)—delete "by or"

#### **8—Amendment of section 21B—Application of Public Sector Act and Superannuation Act**

Section 21B(4b)—delete subsection (4b)

## 9—Insertion of Part 4A

After section 23 insert:

### **Part 4A—Reporting**

#### **23A—Annual report**

- (1) The Administrator must on or before 31 October in each year make a report to the Attorney-General on the work of the Courts Administration Authority during the previous financial year.
- (2) Without limiting the matters that may be included in an annual report, an annual report must contain—
  - (a) information setting out any significant achievements during the relevant financial year; and
  - (b) information detailing significant future initiatives that are being developed or will be implemented; and
  - (c) information detailing any developments in human resource management within the Courts Administration Authority; and
  - (d) information detailing any significant occupational health, safety and welfare issues arising during the relevant financial year; and
  - (e) information relating to workers' compensation and rehabilitation (if any) occurring during the relevant financial year; and
  - (f) information setting out the training and development initiatives provided or offered to staff employed by the Courts Administration Authority during the relevant financial year; and
  - (g) any recommendations the Courts Administration Authority, the Council or the Administrator wishes to make relating to changes to the law and procedures of the participating courts that may be necessary or desirable to improve the administration of justice in participating courts.
- (3) An annual report must include—
  - (a) a report from—
    - (i) the Chief Justice of the Supreme Court; and
    - (ii) the Chief Judge of the District Court; and
    - (iii) the Chief Magistrate of the Magistrates Court; and
    - (iv) the Judge of the Youth Court,on the operations of their respective Courts; and

- (b) a report from the Sheriff on the operations of the Sheriff and security officers (within the meaning of the *Sheriff's Act 1978*),  
during the previous financial year.
- (4) The Attorney-General must within 12 sitting days after receiving a report under this section cause copies of the report to be laid before both Houses of Parliament.

## **Schedule 1—Transitional provision**

### **1—Annual report**

Section 23A of the *Courts Administration Act 1993* (as enacted by this Act) will be taken to apply in relation to the whole of the financial year in which section 9 of this Act comes into operation (and, to avoid doubt, the information required by section 23A(2) must be included in that annual report, whether or not a portion of that year elapsed before that commencement).