

South Australia

Fair Work (Assignment of Judge) Proclamation 2019

under sections 19 and 20 of the *Fair Work Act 1994* and section 16(2a) of the *Acts Interpretation Act 1915*

Preamble

- 1 The Industrial Relations Court was dissolved on 1 July 2017 and its proceedings transferred to the South Australian Employment Tribunal (SAET). In *Kronen v Commercial Motor Industries Pty Ltd (trading as CMI Toyota)* [2018] FCAFC 136, the Federal Court determined that SAET does not have jurisdiction to hear and determine proceedings commenced in the Court under Commonwealth legislation (*Commonwealth proceedings*) before 1 July 2017.
- 2 Section 16(2a) of the *Acts Interpretation Act 1915* provides that a court or tribunal continues in existence for the purpose of continuing or enforcing any legal proceeding or remedy, despite the fact that the court or tribunal would, but for that section, cease to exist by reason of a repeal or amendment of an Act. It also provides for the making of new appointments to the court or tribunal.
- 3 On 8 November 2018, the Governor assigned a Judge of the District Court of South Australia, to be Senior Judge of the Industrial Relations Court of South Australia in order for Commonwealth proceedings to be heard and determined by the Industrial Relations Court.
- 4 This proclamation assigns —
 - (a) the Judge referred to in clause 3(1) to be a Judge of the Industrial Relations Court under section 19 of the *Fair Work Act 1994* as in force before its repeal by Part 4 of the *Statutes Amendment (South Australian Employment Tribunal) Act 2016*; and
 - (b) classifies that Judge as a member of the Court's principal judiciary under section 20 of the *Fair Work Act 1994* as in force before its repeal by Part 4 of the *Statutes Amendment (South Australian Employment Tribunal) Act 2016*.

1—Short title

This proclamation may be cited as the *Fair Work (Assignment of Judge) Proclamation 2019*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Assignment and classification of Judge

- (1) Anthony Rossi, a Judge of the District Court of South Australia, is assigned to be a Judge of the Industrial Relations Court of South Australia.
- (2) The Judge referred to in subclause (1) is classified as a member of the Court's principal judiciary.

Made by the Governor

after consultation by the Attorney-General with the Senior Judge of the Industrial Relations Court of South Australia and the Chief Judge of the District Court of South Australia and with the advice and consent of the Executive Council
on 16 May 2019

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