

South Australia

Fair Work (Assignment of Magistrates) Proclamation 2019

under sections 19A 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—
 - (a) assigns each Magistrate referred to in clause 3(1) to be an industrial magistrate of the Industrial Relations Court under section 19A 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 each Magistrate referred to in clause 3(1) 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 Magistrates) Proclamation 2019*.

2—Commencement

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

3—Assignment and classification of Magistrates

- (1) The following magistrates under the *Magistrates Act 1983* are assigned to be industrial magistrates:
 - (a) Michael Leslie Braim Ardlie;
 - (b) Stuart Charles Cole.
- (2) The magistrates referred to in subclause (1)(a) and (b) are classified as members 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 Magistrate of the Magistrates Court of South Australia and with the advice and consent of the Executive Council
on 18 April 2019

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