



AUSTRALIAN CAPITAL TERRITORY

## **Judicial Commissions (Consequential Amendments) Act 1994**

**No. 10 of 1994**

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**An Act to amend certain Acts consequent on the making of the *Judicial Commissions Act 1994* and to amend the *Inquiries Act 1991* and the *Royal Commissions Act 1991***

*[Notified in ACT Gazette S44: 14 March 1994]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

### **Short title**

1. This Act may be cited as the *Judicial Commissions (Consequential Amendments) Act 1994*.

### **Commencement**

2. This Act commences on the day on which it is notified in the *Gazette*.

### ***Administrative Appeals Tribunal Act 1989***

3. Section 14 of the *Administrative Appeals Tribunal Act 1989* is repealed and the following section substituted:

### **Retirement**

“14. The Executive may, with the consent of a member who is—

- (a) an eligible employee for the purposes of the *Superannuation Act 1976* of the Commonwealth; or

(b) a member of the Superannuation Scheme for the purposes of the *Superannuation Act 1990* of the Commonwealth;  
retire the member from office on the ground of invalidity.”.

***Administrative Decisions (Judicial Review) Act 1989***

**4.** Schedule 1 to the *Administrative Decisions (Judicial Review) Act 1989* is amended by adding at the end the following:

“This Act does not apply to—

- (a) a decision of the Executive under subsection 5 (1) or 16 (3) or section 18 of the *Judicial Commissions Act 1994*;
- (b) a decision of a member of the Legislative Assembly to propose a motion in accordance with paragraph 14 (3) (a) of that Act or to give notice of the motion to the Attorney-General in accordance with paragraph 14 (3) (b) of that Act;
- (c) a decision of the Attorney-General under subsection 16 (1), 17 (1) or 23 (3) of that Act;
- (d) a resolution for the examination of a complaint in respect of a judicial officer by a Judicial Commission passed by the Legislative Assembly under that Act; or
- (e) a decision of a Judicial Commission under that Act.”.

***Freedom of Information Act 1989***

**5.** Section 4 of the *Freedom of Information Act 1989* is amended—

- (a) by omitting from subparagraph (a) (iii) of the definition of “prescribed authority” in subsection (1) “or”;
- (b) by adding at the end of subparagraph (a) (iv) of the definition of “prescribed authority” in subsection (1) “or”; and
- (c) by adding at the end of paragraph (a) of the definition of “prescribed authority” in subsection (1) the following subparagraph:

“(v) a Judicial Commission appointed under the *Judicial Commissions Act 1994*.”.

***Inquiries Act 1991***

**6. (1)** In this section, “Principal Act” means the *Inquiries Act 1991*.

**(2)** Section 20 of the Principal Act is amended by omitting from paragraph (1) (b) “summons” and substituting “search warrant”.

**(3)** Section 26 of the Principal Act is amended by inserting in paragraph (5) (b) “or other thing” after “document”.

**(4)** Section 31 of the Principal Act is amended by omitting paragraphs (1) (a) and (b) and substituting the following paragraphs:

- “(a) because the person appeared or is to appear before a Board as a witness or pursuant to a summons or warrant;
- (b) because of any evidence given, or any document or other thing produced, by the person before a Board; or
- (c) because of any thing that was seized or delivered to a Board pursuant to a search warrant.”.

(5) Section 31 of the Principal Act is amended by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

- “(a) because the employee appeared or is to appear before a Board as a witness or pursuant to a summons or warrant;
- (b) because of any evidence given, or any document or other thing produced, by the employee before a Board; or
- (c) because of any thing that was seized or delivered to a Board pursuant to a search warrant.”.

### ***Magistrates Court Act 1930***

7. (1) Section 10D of the *Magistrates Court Act 1930* is repealed and the following section substituted:

#### **Retirement**

“10D. The Executive may, with the consent of a Magistrate who is—

- (a) an eligible employee for the purposes of the *Superannuation Act 1976* of the Commonwealth; or
- (b) a member of the Superannuation Scheme for the purposes of the *Superannuation Act 1990* of the Commonwealth;

retire the Magistrate from office on the ground of invalidity.”.

(2) Section 10J of the *Magistrates Court Act 1930* is repealed and the following section substituted:

#### **Tenure of office**

“10J. (1) A special magistrate holds office—

- (a) for the period specified in the instrument of appointment; or
- (b) if a period is not so specified—until he or she attains the age of 70 years.

“(2) A person who has attained the age of 70 years shall not be appointed under section 10H.”.

### ***Ombudsman Act 1989***

**8.** Section 5 of the *Ombudsman Act 1989* is amended by inserting after paragraph (2) (cd) the following paragraph:

“(ce) action taken by a Judicial Commission under the *Judicial Commissions Act 1994*.”.

***Remand Centres Act 1976***

**9.** Section 15 of the *Remand Centres Act 1976* is amended by adding at the end of subsection (1) the following paragraph:

“(j) a person apprehended pursuant to a warrant issued under section 44 of the *Judicial Commissions Act 1994*.”.

***Royal Commissions Act 1991***

**10. (1)** In this section, “Principal Act” means the *Royal Commissions Act 1991*.

**(2)** Section 8 of the Principal Act is amended by omitting from subsection (3) “annual”.

**(3)** Section 15 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

“(4) When submitting its report to the Chief Minister, a Commission shall commit any documents or things (except documents or things required for the purpose of finalising matters under section 22) then in its possession to the custody of the Chief Minister for safekeeping.”.

**(4)** Section 22 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) When any outstanding matters have been finalised, the Commission shall—

- (a) notify the Chief Minister accordingly; and
- (b) commit any documents or things still in its possession to the custody of the Chief Minister for safekeeping.”.

**(5)** Section 25 of the Principal Act is amended by omitting from paragraph (1) (b) “summons” and substituting “search warrant”.

**(6)** Section 34 of the Principal Act is amended by inserting in paragraph (5) (b) “or other thing” after “document”.

**(7)** Before section 36 of the Principal Act the following section is inserted in Part V:

**Obstruction of authorised persons**

“35A. A person shall not, without reasonable excuse, obstruct or hinder a police officer or an authorised person in the exercise of his or her powers under section 25.

Penalty: \$5,000 or imprisonment for 6 months, or both.”.

**(8)** Section 40 of the Principal Act is amended by omitting paragraphs (1) (a) and (b) and substituting the following paragraphs:

- “(a) because the person appeared or is to appear before a Commission as a witness or pursuant to a summons or warrant;
- (b) because of any evidence given, or any document or other thing produced, by the person before a Commission; or
- (c) because of any thing that was seized or delivered to a Commission pursuant to a search warrant.”.

**(9)** Section 40 of the Principal Act is amended by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

- “(a) because the employee appeared or is to appear before a Commission as a witness or pursuant to a summons or warrant;
- (b) because of any evidence given, or any document or other thing produced, by the employee before a Commission; or
- (c) because of any thing that was seized or delivered to a Commission pursuant to a search warrant.”.

**(10)** Section 49 of the Principal Act is amended by omitting “Board” and substituting “Commission”.

### ***Supreme Court Act 1933***

**11. (1)** Section 4 of the *Supreme Court Act 1933* is amended by omitting subsection (6).

**(2)** Section 44 of the *Supreme Court Act 1933* is repealed and the following section substituted:

#### **Retirement**

“44. The Executive may, with the consent of the Master if he or she is—

- (a) an eligible employee for the purposes of the *Superannuation Act 1976* of the Commonwealth; or
- (b) a member of the Superannuation Scheme for the purposes of the *Superannuation Act 1990* of the Commonwealth;

retire the Master from office on the ground of invalidity.”.

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**(3)** Section 45 of the *Supreme Court Act 1933* is amended by omitting subsection (6).

*[Presentation speech made in Assembly on 16 December 1993]*

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