

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Judicial Officers Act 1986* to provide for the appointment of non-legally qualified community representatives nominated by Parliament to the Conduct Division of the Judicial Commission. The Conduct Division has the function of dealing with complaints about the ability or behaviour of judicial officers and with formal requests concerning the suspected impairment of judicial officers.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Judicial Officers Act 1986* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

The function of the Conduct Division of the Judicial Commission of New South Wales is to examine and deal with complaints referred to it under Part 6 of the *Judicial Officers Act 1986* (being complaints about the ability or behaviour of judicial officers) and formal requests referred to it under Part 6A of the Act (being requests made by the relevant head of jurisdiction to investigate a judicial officer's suspected impairment). The Act currently provides that the Division is to be constituted by a panel of 3 members who are judicial officers (but one may be a retired judicial officer). The members are appointed by the Commission.

Schedule 1 [1] and [3] provide for the appointment to a panel of the Conduct Division of a community representative nominated by Parliament to replace one of the 3 judicial officers currently required to constitute a panel. A community representative must not be legally qualified, must not be a member of the Commission and is to be a person of high standing in the community. Parliament may nominate 2 community representatives, who are to be appointed to a panel of the Division in rotation. Nominations must be made jointly by the Legislative Assembly and the Legislative Council, with provision for dealing with a disagreement about a nomination. Provision is also made for expiry of a nomination (including if the nominee becomes legally qualified, resigns or is replaced by Parliament).

Schedule 1 [2] provides for the remuneration payable to a community representative.

Schedule 1 [4] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [5] inserts provisions to ensure that any existing panel is not affected and that the requirement for a community representative will not take effect until Parliament has made the requisite nomination.