

Passed by both Houses



New South Wales

Judicial Officers Amendment Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Judicial Officers Amendment Bill 2007

Act No , 2007

An Act to amend the *Judicial Officers Act 1986* in relation to the appointment of non-legally qualified persons in addition to judicial officers to the Conduct Division of the Judicial Commission of New South Wales; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Judicial Officers Amendment Act 2007*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Judicial Officers Act 1986 No 100

The *Judicial Officers Act 1986* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 22 Constitution of Conduct Division

Omit section 22 (2). Insert instead:

- (2) Of the panel of 3 persons so appointed:
 - (a) 2 are to be judicial officers (but one may be a retired judicial officer), and
 - (b) one is to be a community representative, being a person of high standing in the community nominated by Parliament in accordance with Schedule 2A.

[2] Section 50 Remuneration

Insert at the end of the section:

- (2) A member of the Conduct Division who is a community representative is entitled to be paid such remuneration as the Minister may from time to time determine.

[3] Schedule 2A

Insert after Schedule 2:

Schedule 2A Provisions relating to nomination of community representative on Conduct Division

(Section 22 (2))

1 Definition

In this Schedule:

community representative means a person nominated by Parliament for appointment to a panel of the Conduct Division under section 22 (2).

2 Nominee not to be legally qualified or member of Commission

A person cannot be nominated as a community representative if the person:

- (a) is legally qualified (that is, the person is an Australian lawyer or has attained the academic qualifications necessary for admission as an Australian lawyer), or
- (b) is a member of the Commission.

3 Two persons may be nominated

Two community representatives may be nominated by Parliament for the purposes of section 22. The appointment of one of those community representatives to a panel is to be made in rotation (subject to availability for appointment on the occasion concerned).

4 Procedure for nomination

- (1) The Legislative Assembly may by resolution nominate a community representative. If the Legislative Council by message to the Assembly concurs in that nomination, the person is duly nominated as a community representative.
- (2) If the Legislative Council rejects a nomination made by the Legislative Assembly, the Legislative Council may, by message to the Legislative Assembly, nominate another person as a community representative. If the Legislative Assembly by message to the Council concurs in that nomination, the person is duly nominated as a community representative.
- (3) If the Legislative Assembly rejects a nomination made by the Legislative Council under subclause (2) or the Legislative Council fails to nominate another person under subclause (2), the Assembly may by message to the Council:
 - (a) insist on its original nomination, in which case the person nominated by the Assembly is duly nominated as a community representative, or
 - (b) nominate instead another person as a community representative, in which case the procedure for nomination under this clause is resumed in relation to that other person.
- (4) The Legislative Council is taken to have failed to nominate another person under subclause (2) if it has not done so within 3 sitting days after the Legislative Assembly notified the Council of its nomination.

5 Expiry of nomination

- (1) The nomination of a community representative expires:
 - (a) if the nominee becomes legally qualified or a member of the Commission, or
 - (b) if the nominee resigns as a community representative in writing addressed to the presiding officers of the Legislative Assembly and Legislative Council, or

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- (c) if a replacement community representative is nominated by Parliament in accordance with this Schedule, or
 - (d) if the nominee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) if the nominee becomes a mentally incapacitated person, or
 - (f) if the nominee is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence that if committed in New South Wales would be an offence so punishable.
- (2) The nomination of a community representative expires on the first meeting of the Legislative Assembly following the dissolution of the Assembly.
 - (3) If the nomination of a community representative expires after the person's appointment to a panel, the person may continue to sit on that panel as the community representative.

[4] Schedule 6 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[5] Schedule 6, Part 5

Insert after Part 4:

**Part 5 Provisions consequent on enactment of
Judicial Officers Amendment Act 2007**

5 Definition

In this Part:

amending Act means the *Judicial Officers Amendment Act 2007*.

6 Matters under Part 6 and Part 6A not finally dealt with

- (1) Any complaint under Part 6 or formal request under Part 6A referred to the Conduct Division, and not finally dealt with before the commencement of the amending Act, may continue to be dealt with by the Division as constituted immediately before that commencement.

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Schedule 1 Amendments

- (2) The amendments made by the amending Act do not apply to a panel of the Conduct Division appointed after the commencement of the amending Act but before the first nomination by Parliament of a community representative for appointment to a panel.