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New South Wales

# **Government and Related Employees Appeal Tribunal Amendment Bill 1996**

## **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 *Government and Related Employees Appeal Tribunal Act 1980*:

- (a) to widen the class of persons eligible to be appointed as Senior Chairperson of the Government and Related Employees Appeal Tribunal, and
- (b) to remove age limits imposed on the Senior Chairperson when the holder of a judicial office,

and to make other minor or consequential amendments to that Act.

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## Outline of provisions

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

**Clause 2** provides for the proposed Act to commence on assent.

**Clause 3** is a formal provision giving effect to the Schedule of amendments.

### **Schedule 1 Amendments**

**Schedule 1 [1]** inserts a definition of *judicial office*, which is to have the same meaning as in the *Constitution Act 1902* (including Judges of the Supreme Court and District Court and Magistrates).

**Schedule 1 [2]** replaces section 7 (2), which sets out the qualifications for appointment as Senior Chairperson. The current provision provides that only Judges of the Supreme Court or Industrial Court under the age of 70 years are eligible for appointment. The new provision provides that persons who are or have been the holders of judicial office, or legal practitioners of at least 7 years' standing (which is the qualification for appointment to judicial office), are eligible for appointment as Senior Chairperson.

**Schedule 1 [3]** makes a corresponding amendment to section 10, so as to remove the age limit imposed on a Chairperson of the Tribunal when the holder of a judicial office.

**Schedule 1 [4]** makes an amendment by way of statute law revision. It replaces a reference to a barrister or solicitor with a reference to a legal practitioner, in line with the requirement of section 18 of the *Legal Profession Act 1987* that references be construed in this way.

**Schedule 1 [5], [9] and [12]** omit references to magisterial office, which is assimilated to judicial office and covered in the proposed definition of *judicial office*.

**Schedule 1 [6]** provides that Schedule 1 to the Principal Act will apply to the Senior Chairperson in the same way as it applies to a Chairperson. At present, some provisions of the Schedule do not apply to the Senior Chairperson, since this office is held by a Judge. The amendment is consequential on the amendment making it possible in the future for a person who is not a Judge to hold office as Senior Chairperson.

**Schedule 1 [7], [8] and [11]** omit unnecessary references to the Senior Chairperson, given the provision to be inserted by Schedule 1 [6] that extends the general application of Schedule 1 to the Principal Act to the Senior Chairperson.

**Schedule 1 [10]** omits a provision that requires the Senior Chairperson to retire at the age of 70 years.

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New South Wales

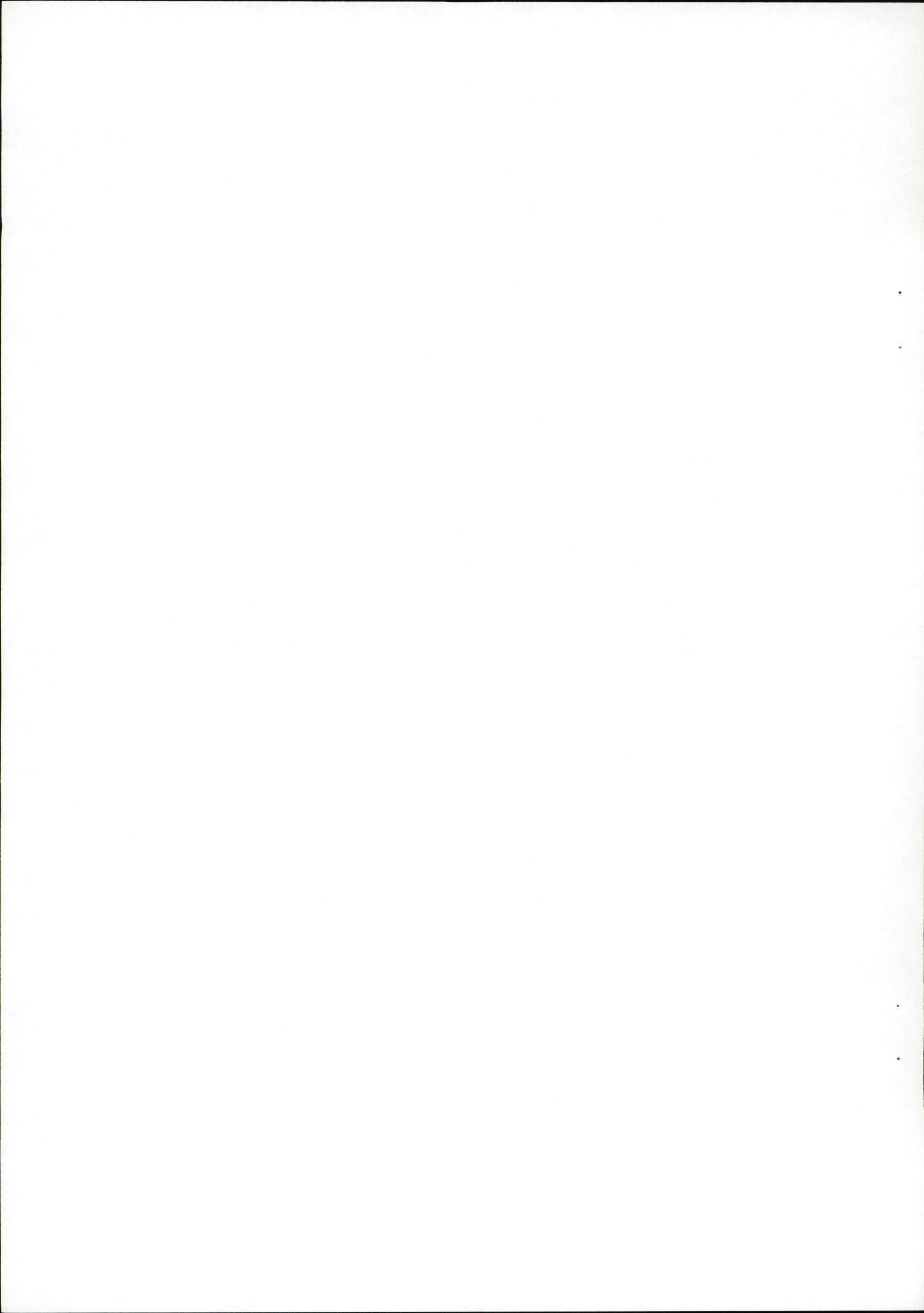
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New South Wales

# Government and Related Employees Appeal Tribunal Amendment Bill 1996

No. , 1996

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## **A Bill for**

An Act to amend the *Government and Related Employees Appeal Tribunal Act 1980* in relation to the office of Senior Chairperson of the Government and Related Employees Appeal Tribunal, and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Government and Related Employees Appeal Tribunal Amendment Act 1996*.

**2 Commencement**

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This Act commences on the date of assent.

**3 Amendment of Government and Related Employees Appeal Tribunal Act 1980 No 39**

The *Government and Related Employees Appeal Tribunal Act 1980* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 4 Definitions

Insert in section 4 (1) in alphabetical order:

*judicial office* has the same meaning as in section 52 (1) of the *Constitution Act 1902*. 5

### [2] Section 7 Senior Chairperson

Omit section 7 (2). Insert instead:

- (2) A person is qualified to be appointed as the Senior Chairperson if the person: 10
- (a) holds or has held a judicial office, or
  - (b) is a legal practitioner of at least 7 years' standing.

### [3] Section 10 Chairperson

Omit "and, if the person is a Judge of the Supreme Court or a member of the Industrial Commission of New South Wales, the person has not attained the age of 65 years" from section 10 (2). 15

### [4] Section 13 Constitution of the Tribunal

Omit "a barrister admitted by, or a solicitor of, the Supreme Court or a person qualified to be admitted as a barrister by, or a solicitor of, that Court" from section 13 (2). 20

Insert instead "a legal practitioner within the meaning of the *Legal Profession Act 1987* or a person qualified to be admitted as such a legal practitioner".

- [5] **Schedule 1 Provisions relating to the offices of Senior Chairperson and Chairperson**
- Omit "or a magisterial office" wherever occurring in clauses 2, 3, 4, 5, 10 and 11.
- [6] **Schedule 1, clause 1A** 5
- Insert after clause 1:
- 1A Application of Schedule to Senior Chairperson**
- The following clauses of this Schedule apply to the Senior Chairperson in the same way as they apply to a Chairperson, and accordingly references in those clauses to a Chairperson include a reference to the Senior Chairperson. 10
- [7] **Schedule 1, clause 2 Appointment of holder of judicial office**
- Omit "the Senior Chairperson or" wherever occurring in clause 2 (1) and (2). 15
- [8] **Schedule 1, clause 2 (3)**
- Omit "Senior Chairperson or".
- [9] **Schedule 1, clause 2 (3)**
- Omit "or magisterial office, as the case may be".
- [10] **Schedule 1, clause 6 Retirement of Senior Chairperson** 20
- Omit the clause.



**[11] Schedule 1, clause 7 Removal of holder of judicial office**

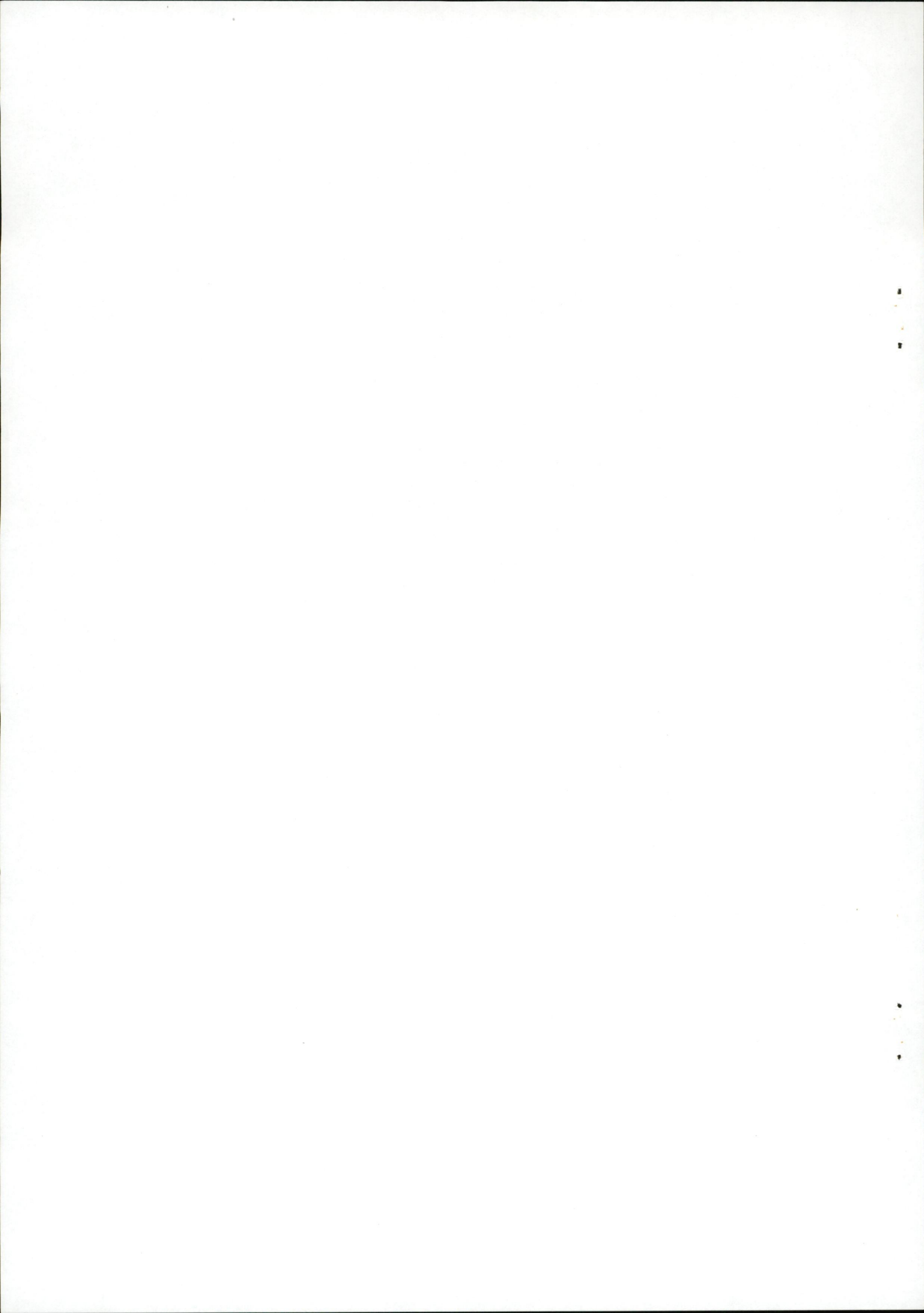
Omit "the Senior Chairperson or".

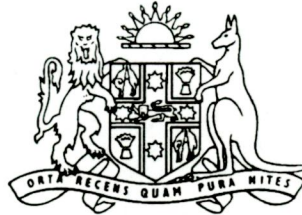
**[12] Schedule 1, clause 9 Vacation of office by Chairpersons not being holders of judicial office**

Omit clause 9 (b). Insert instead:

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- (b) if the person engages (whether in New South Wales or elsewhere) during the term of office in any paid employment outside the duties of the office,





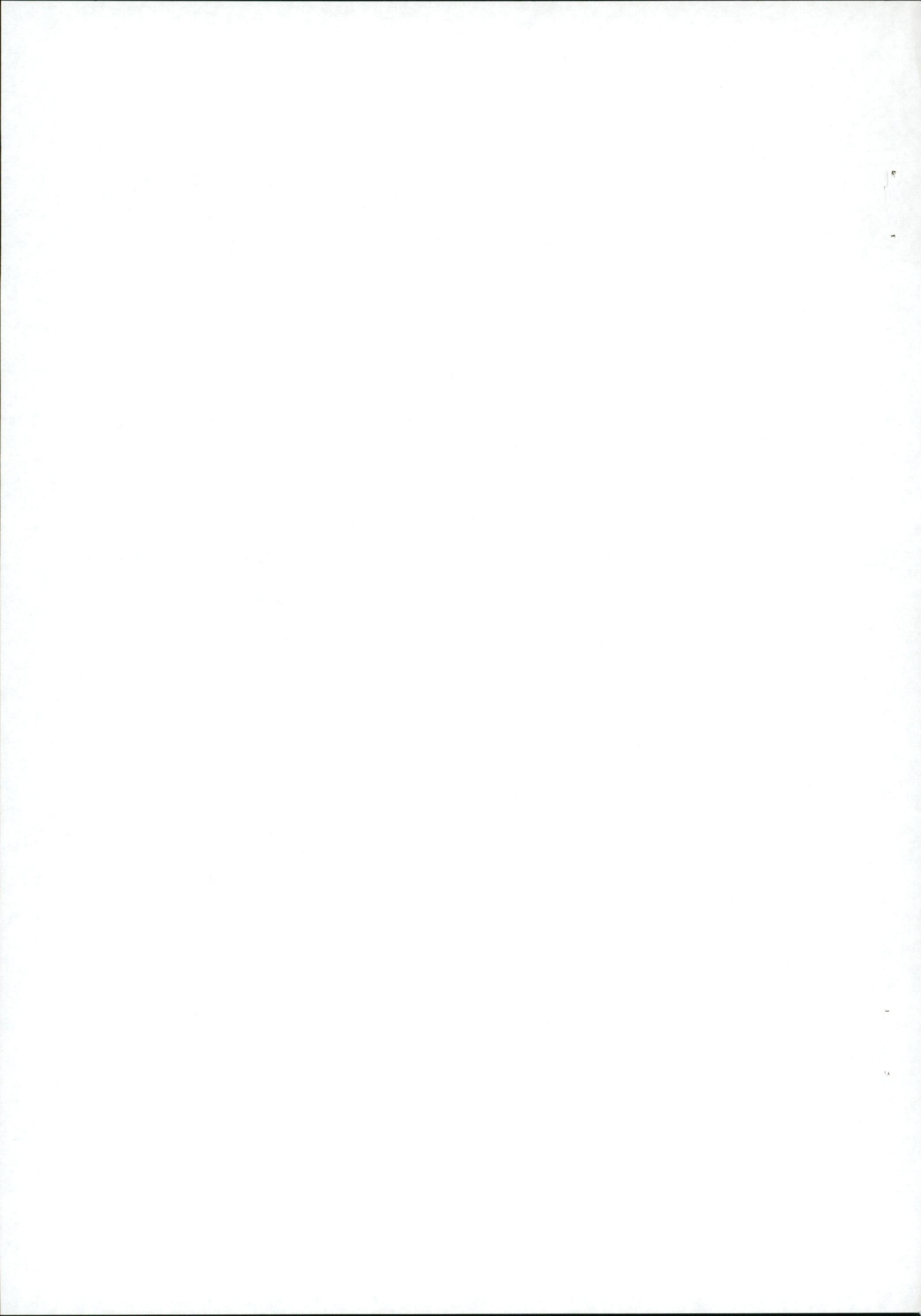
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New South Wales

# **Government and Related Employees Appeal Tribunal Amendment Act 1996 No 12**

Act No 12, 1996

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An Act to amend the *Government and Related Employees Appeal Tribunal Act 1980* in relation to the office of Senior Chairperson of the Government and Related Employees Appeal Tribunal, and for other purposes. [Assented to 5 June 1996]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Government and Related Employees Appeal Tribunal Amendment Act 1996*.

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Government and Related Employees Appeal Tribunal Act 1980 No 39**

The *Government and Related Employees Appeal Tribunal Act 1980* is amended as set out in Schedule 1.

## **Schedule 1 Amendments**

(Section 3)

### **[1] Section 4 Definitions**

Insert in section 4 (1) in alphabetical order:

*judicial office* has the same meaning as in section 52 (1) of the *Constitution Act 1902*.

### **[2] Section 7 Senior Chairperson**

Omit section 7 (2). Insert instead:

(2) A person is qualified to be appointed as the Senior Chairperson if the person:

- (a) holds or has held a judicial office, or
- (b) is a legal practitioner of at least 7 years' standing.

### **[3] Section 10 Chairperson**

Omit "and, if the person is a Judge of the Supreme Court or a member of the Industrial Commission of New South Wales, the person has not attained the age of 65 years" from section 10 (2).

### **[4] Section 13 Constitution of the Tribunal**

Omit "a barrister admitted by, or a solicitor of, the Supreme Court or a person qualified to be admitted as a barrister by, or a solicitor of, that Court" from section 13 (2).

Insert instead "a legal practitioner within the meaning of the *Legal Profession Act 1987* or a person qualified to be admitted as such a legal practitioner".

**[5] Schedule 1 Provisions relating to the offices of Senior Chairperson and Chairperson**

Omit "or a magisterial office" wherever occurring in clauses 2, 3, 4, 5, 10 and 11.

**[6] Schedule 1, clause 1A**

Insert after clause 1:

**1A Application of Schedule to Senior Chairperson**

The following clauses of this Schedule apply to the Senior Chairperson in the same way as they apply to a Chairperson, and accordingly references in those clauses to a Chairperson include a reference to the Senior Chairperson.

**[7] Schedule 1, clause 2 Appointment of holder of judicial office**

Omit "the Senior Chairperson or" wherever occurring in clause 2 (1) and (2).

**[8] Schedule 1, clause 2 (3)**

Omit "Senior Chairperson or".

**[9] Schedule 1, clause 2 (3)**

Omit "or magisterial office, as the case may be".

**[10] Schedule 1, clause 6 Retirement of Senior Chairperson**

Omit the clause.



**[11] Schedule 1, clause 7 Removal of holder of judicial office**

Omit "the Senior Chairperson or".

**[12] Schedule 1, clause 9 Vacation of office by Chairpersons not being holders of judicial office**

Omit clause 9 (b). Insert instead:

- (b) if the person engages (whether in New South Wales or elsewhere) during the term of office in any paid employment outside the duties of the office,

[Minister's second reading speech made in—

Legislative Assembly on 1 May 1996

Legislative Council on 29 May 1996]

BY AUTHORITY

