



SUPREME COURT

No. 50 of 1977

ANALYSIS

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| <ol style="list-style-type: none"> 1. Short title and citation. 2. Fixing of sittings by judges. 3. Absence of limitations as to time and place of Court sittings. 4. Sittings of Full Court. 5. Sittings of single judges for civil trials. 6. Sittings for business other than civil trials. | <ol style="list-style-type: none"> 7. Extent of Rules of Court. 8. Rule Committee. 9. Recommendation or approval of Rules of Court by Rule Committee. 10. Sittings in criminal jurisdiction. Sittings of court. 11. Consequential amendment of <i>Supreme Court Act 1887</i>. |
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AN ACT to alter the manner in which sittings of the Supreme Court of Tasmania and the judges thereof are fixed and, in relation thereto, to amend the Supreme Court Civil Procedure Act 1932, the Criminal Code Act 1924, and the Supreme Court Act 1887, and to amend the provisions of the Supreme Court Civil Procedure Act 1932 relating to the Rule Committee.

[31 August 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Supreme Court Act 1977*. Short title and citation.

(2) The *Supreme Court Civil Procedure Act 1932**, as subsequently amended, is in this Act referred to as the Principal Act.

* 23 Geo. V No. 58. For this Act, as amended to 1959, see Reprint of Statutes (1826-1959), Vol. 6, p. 11. Subsequently amended by Nos. 66 and 68 of 1962, Nos. 4 and 63 of 1963, Nos. 36, 44, and 55 of 1965, No. 6 of 1971, No. 84 of 1973, and No. 92 of 1974.

2 After section 18 of the Principal Act the following section is inserted in Part III thereof:—

Fixing of sittings by judges.

“18A—(1) Subject to and in accordance with this Part, the sittings of the Court and the judges thereof shall be fixed by a majority of the judges, one of whom shall be the Chief Justice, and in the exercise of the powers conferred by this section, they may give directions appointing the time, place, and purpose of any such sitting and cancelling, postponing, or extending any sitting so appointed.

“(2) The Registrar shall cause any direction given under subsection (1) to be published in the *Gazette*.

“(3) Nothing in this Part shall be construed as prejudicing or affecting the exercise of the powers conferred by any other Act to fix the sittings of the Court or a judge exercising a criminal jurisdiction.”.

Absence of limitations as to time and place of Court sittings.

3 Section 19 of the Principal Act is amended—

(a) by omitting from subsection (1) the words “the Rules of Court” and substituting therefor the words “any directions given thereunder”; and

(b) by omitting from subsection (2) the words “the Rules of Court” and substituting therefor the words “any directions given thereunder”.

Sittings of Full Court.

4 Section 20 of the Principal Act is amended—

(a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) There shall be at least four sittings of the Full Court in every year.”;

(b) by omitting from subsection (2) the words “first day of November” and substituting therefor the words “fifteenth day of October”;

(c) by omitting subsection (3) and substituting therefor the following subsection:—

“(3) A direction given for the purposes of subsection (2) may at any time be altered or rescinded, or replaced by a further direction, but the powers of this subsection shall be exercised so that the provisions of that subsection as to the number, duration, and times of sittings of the Full Court are given effect to.”;

(d) by omitting from subsection (4) the words “by Rule of Court”; and

(e) by omitting from subsection (6) the words “by Rule of Court”.

5 Section 21 of the Principal Act is amended by omitting from subsection (1) the words “, subject to the Rules of Court,” and the words “by Rule of Court”.

Sittings of single judges for civil trials.

6 Section 22 of the Principal Act is amended—

Sittings for business other than civil trials.

(a) by omitting from subsection (1) all the words following “as may be appointed by” and inserting the words “the judges under this Part.”; and

(b) by inserting after subsection (1) the following subsection:—

“(1A) Notwithstanding anything in subsection (1) a single judge may sit in court as a court for the disposal of any business at such times and places as he may appoint and the other business of the court will permit.”.

7 Section 197 of the Principal Act is amended—

Extent of Rules of Court.

(a) by omitting paragraph (a) of subsection (1); and

(b) by omitting subsection (5) and substituting therefor the following subsection:—

“(5) Rules of Court shall not make provision for any matter for which provision may be made under Part III.”.

8 Section 202 of the Principal Act is amended—

Rule Committee.

(a) by omitting from subsection (1) the words “and the sittings of the Court”;

(b) by omitting from subsection (4) the word “Five” and substituting the word “Six”;

(c) by omitting from that subsection the word “three” and substituting the word “four”.

9 Section 203 of the Principal Act is amended by omitting from subsection (1) the words “(other than a Rule of Court appointing a sitting or sittings of a Full Court or some other court, or of a judge of the Court, or revoking, altering, or extending any such sitting, or otherwise providing for, regulating, or relating to any such sitting)”.

Recommendation or approval of Rules of Court by Rule Committee.

Sittings in
criminal
jurisdiction.

10—(1) Section 12 of the *Criminal Code Act 1924* is amended by adding at the end thereof the following subsection:—

“(2) This section does not authorize the making of provision by a Rule of Court of any matter for which provision may be made under section 12A.”.

(2) After section 12 of the *Criminal Code Act 1924* the following section is inserted:—

Sittings
of court.

“12A—(1) A majority of judges, one of whom shall be the Chief Justice, may fix the sittings of the judges exercising the criminal jurisdiction of the Supreme Court of Tasmania, and the sittings of that court as the Court of Criminal Appeal, and, in the exercise of their powers under this section, they may appoint the time, place, and purpose of any such sitting, and may cancel, postpone, or extend any sitting so appointed.

“(2) The Registrar shall cause any direction given under subsection (1) to be published in the *Gazette*.

“(3) In this section, ‘Chief Justice’ has the same meaning as it has for the purposes of the *Supreme Court Civil Procedure Act 1932*.”.

(3) Section 400 of the *Criminal Code* is amended by omitting subsection (4).

Consequential
amendment of
*Supreme Court
Act 1887*.

11 Section 11 of the *Supreme Court Act 1887* is amended by omitting from subsection (1) the words “may be held at such times and at such places as the judges may by any rule or order appoint” and substituting therefor the words “shall be held at such times and at such places as may lawfully be appointed”.