

MAGISTRATES AMENDMENT BILL 2003

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The legislation is designed to facilitate a collegiate approach to the administration of the Magistrates Courts by establishing a Court Governance Advisory Committee and changing the procedures for determining the placement of Magistrates throughout Queensland.

In particular the amendments aim to ensure that the process for making decisions about the transfer of Magistrates is transparent and more inclusive. The amendments limit the circumstances in which a Magistrate is able to seek review of a transfer decision by replacing the current merits review process with limited judicial review and limiting the circumstances in which costs may be awarded in review proceedings.

The circumstances in which a Magistrate may be removed from office are clarified, in particular, to make it clear that a refusal to comply with a transfer decision could be grounds to remove the Magistrate from office.

The Bill also clarifies the process for suspension and removal from office in circumstances where a Magistrate is charged with an indictable offence. A Magistrate who is charged with an indictable offence will be automatically suspended from office without the need for the Attorney-General to make an application to the Supreme Court for the suspension to be effective. A Magistrate convicted of an indictable offence will be automatically suspended without pay.

Consistent with the principle of judicial independence, the Chief Magistrate's powers to discipline other Magistrates by way of reprimand are removed. This will contribute to a more collegiate approach to the administration of the Magistrates Courts.

The amendments provide that the Chief Magistrate may hold a commission as a District Court Judge to enable the Governor in Council to appoint a District Court Judge as Chief Magistrate if considered appropriate in the circumstances by the Governor in Council. Magistrates

will be able to be appointed on a part-time basis and will also be able to hold other offices with the approval of the Governor in Council.

Reasons for the objectives and how they will be achieved

The Bill establishes a more collegiate process for administration of the Magistrates Courts. A Court Governance Advisory Committee, comprised of Magistrates, is established to develop a transfer policy and to consider, and make recommendations to the Chief Magistrate about, transfer decisions.

Because it can be difficult to find Magistrates who are willing to serve in regional centres, transfer decisions are necessarily contentious. However, this is exacerbated by the current provisions which do not require a consultative approach to be adopted by the Chief Magistrate. The amendments ensure that the process for making decisions is transparent and more inclusive. A collegiate approach is mandated by the proposed amendments. This is consistent with the principle that members of the judiciary should be responsible for matters of internal court management.

Underpinning these amendments is the assumption that appointment as a Magistrate carries with it the expectation that the appointee will serve in regional Queensland.

The Chief Magistrate's powers to discipline by way of reprimand are being removed in response to criticism that such powers are incompatible with the principle of judicial independence. The Chief Justice and the Chief Judge do not have comparable powers and nor do Chief Magistrates in other jurisdictions.

Provision is made for the appointment of part-time Magistrates to ensure a broader pool of people who are eligible for appointment as Magistrates. It will also facilitate present Magistrates undertaking further study or training and may assist in obtaining Magistrates in regional areas.

The changes to the suspension and removal provisions of the Act will ensure a clear process for the suspension and removal of a Magistrate who is charged, and then convicted of an indictable offence.

Administrative cost to Government of implementation

The amendments contained in the Bill are not expected to have financial implications for Government.

Consistency with Fundamental Legislative Principles

There are two potential breaches of the fundamental legislative principles as set out in section 4 of the *Legislative Standards Act 1992*. These potential breaches are set out in more detail below.

The proposed amendments reduce the appeal rights of Magistrates affected by transfer decisions. Merits review by the current statutory judicial committee is replaced with a limited judicial review on the grounds that the transfer decision is so unreasonable that no reasonable Chief Magistrate could have made the decision, or the decision was made without regard to the principles of natural justice. The review is only available if the Chief Magistrate does not accept the recommendation of the Court Governance Advisory Committee. The review is to a single judge of the Supreme Court with no further right of review. The applicant for judicial review is not entitled to costs except in exceptional circumstances decided by the reviewing judge.

The limitation on review rights is balanced by the establishment of an internal review mechanism through the Court Governance Advisory Committee. The new process will ensure that the transfer of Magistrates is considered in a fair process before five judicial officers. The limitations on review rights are justified on the basis that the administration of the court should primarily be conducted in a collegiate manner within the court, rather than by an external review body. The new administration mechanisms are designed to make the decision making process fairer and more transparent. However, the limited judicial review process is included to ensure that, in cases where the Chief Magistrate does not accept the Court Governance Advisory Committee's recommendation, decisions are made fairly and not arbitrarily or unreasonably.

The Bill provides for the automatic suspension of a Magistrate who is charged with an indictable offence and the automatic suspension without pay of a Magistrate who is convicted of an indictable offence. There is no right of appeal for a Magistrate suspended on being charged with an indictable offence. This is justified on the basis that it is undesirable for a Magistrate who is charged with an indictable offence to continue to sit as a Magistrate. It is reasonable in these circumstances for the suspension to operate upon charge. The fact that a person has been charged with an indictable offence is objectively verifiable and there is no need for the Supreme Court to determine that the Magistrate has been charged. Because the suspension is with pay, there is no financial loss for the Magistrate.

Where a Magistrate is convicted of an indictable offence, it is reasonable for the suspension to be without pay from the date of conviction. There are adequate safeguards in that the Magistrate is able to be reimbursed for lost income if the Magistrate is acquitted on appeal. If the Magistrate is convicted, an application must still be brought to the Supreme Court before the Magistrate can be removed from office. The application can only be brought after the appeal period has expired.

CONSULTATION

Community

There has been no public consultation on the Bill as the Bill is primarily concerned with matters of internal court governance.

The Chief Justice and the Chief Magistrate have both been consulted.

Government

The Department of the Premier and Cabinet has been consulted in relation to the Bill.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

PART 2—AMENDMENT OF MAGISTRATES ACT 1991

Clause 2 provides that the *Magistrates Act 1991* is amended by this Part.

Clause 3 amends the definitions section of the Act to remove obsolete definitions and insert definitions required by the amendments.

Clause 4 amends section 5 of the Act. Section 5(3) of the Act currently allows for Magistrates to be appointed to a specific area for a specified period of up to five years. Section 5(3) of the Act is amended to allow the Governor in Council to nominate, in the appointment of a Magistrate, two places where a Magistrate is to constitute a Magistrates Court. The first nomination would be to a place where the Magistrate can obtain supervision and training and may be for a period of up to one year. The second nomination may be to the same place or to a different place and may be for a period of up to five years.

Under the current section 5(5), the Chief Magistrate may, for good reason directly related to the Magistrate, determine that the Magistrate is to constitute a Magistrates Court at a place other than the place mentioned in the appointment. The section provides examples of good reasons. Section 5(5) is amended to remove an example that is no longer relevant given the removal of the Chief Magistrate's powers to discipline other Magistrates.

Section 5 is amended to provide for a District Court Judge to be appointed as Chief Magistrate. Section 5(6) provides that a Magistrate or a District Court Judge can be appointed as Chief Magistrate either at the time of the person's appointment as a Magistrate or Judge or at any time afterwards.

Provision is also made for the appointment of part-time Magistrates. A Magistrate will be taken to be appointed on a full-time basis unless the instrument of appointment specifies that the appointment is on a part-time basis. Magistrates appointed on a full-time basis may act as part-time Magistrates if the Attorney-General agrees in writing. Similarly, Magistrates appointed on a part-time basis may act as full-time Magistrates if the Attorney-General agrees in writing.

Clause 5 replaces section 9 of the Act to allow for the situation where the Chief Magistrate is a District Court Judge. An amendment is required to clarify the salary entitlements of the District Court Judge and to prevent any inconsistency arising between the Act and the *Constitution of Queensland 2001* which outlines the process that must be followed in order to remove a judge from office and stipulates that a judge's salary may not be reduced.

The new section 9 reflects the current provisions of section 9 and applies where a Magistrate is appointed as Chief Magistrate.

Section 9A applies where a District Court Judge is appointed as Chief Magistrate. The appointment as Chief Magistrate does not affect a person's salary and allowances, title, tenure or seniority as a District Court

Judge and service as Chief Magistrate is taken to be service as a District Court Judge. The Chief Magistrate is not able to exercise the jurisdiction of a District Court Judge while appointed as Chief Magistrate. However, with the approval of the Governor in Council, the Chief Magistrate may resign as Chief Magistrate and Magistrate but continue in office as a District Court Judge. The Chief Magistrate may only be removed from office in the way provided for in section 61 of the *Constitution of Queensland 2001* and the provisions of the Act relating to the suspension and removal of Magistrates and the tenure and employment conditions of Magistrates are stated not to apply to the Chief Magistrate.

Clause 6 removes sections 10(4)-10(11) of the Act. Sections 10(4)-10(7) are no longer necessary given the new procedure for making transfer decisions provided for in new Parts 5A and 5B of the amended Act. Sections 10(8)-10(11) relate to the Chief Magistrate's power to discipline other Magistrates. These provisions are being removed as they are inconsistent with the principle of judicial independence. Also, section 10(2)(a) is amended by replacing "determining" with "deciding" to reflect modern drafting practice.

Clause 7 removes Part 4 of the current Act which provides for a merits review of transfer determinations by the judicial committee. This review process is replaced with a limited judicial review process provided for in new Part 5C.

Clause 8 inserts new Part 5A (Court Governance Advisory Committee), Part 5B (Transfer Recommendations and Transfer Decisions) and Part 5C (Review of Transfer Decisions) into the Act.

The provisions of the new Part 5A relate to the Court Governance Advisory Committee and provide for the establishment, functions, composition and meetings of the Court Governance Advisory Committee.

Section 12A establishes the Court Governance Advisory Committee. Under section 12B, the functions of the Court Governance Advisory Committee are to develop, in conjunction with the Chief Magistrate, a transfer policy and to consider and make recommendations to the Chief Magistrate about transfer decisions (other than temporary transfer decisions made under section 12P) in accordance with the transfer policy. The Court Governance Advisory Committee may also consider and make recommendations about other matters affecting the Magistrates Courts that are referred to it by the Chief Magistrate. This ability to refer non-transfer matters to the Court Governance Advisory Committee for consideration is intended to further encourage a collegiate approach to internal court management.

Section 12C provides that the Court Governance Advisory Committee consists of two permanent and three temporary members. The permanent members are the Deputy Chief Magistrate, who is also the chairperson, and the State Coroner. The temporary members are three Magistrates, appointed by the Chief Magistrate in consultation with the permanent members. One of the temporary members must be serving in a centre outside the south east Queensland Magistrates Courts districts as defined in section 12C. The three temporary members are included on the Court Governance Advisory Committee to ensure that there is representation by rank and file Magistrates and also to reduce the Brisbane focus of the Court Governance Advisory Committee by guaranteeing that at least one person is from a regional area.

The three temporary members will serve on the Court Governance Advisory Committee for a period of two years. Magistrates appointed to the Court Governance Advisory Committee may not be reappointed for at least four years after the end of the initial appointment to ensure that the Court Governance Advisory Committee is not composed of the same Magistrates year after year. Magistrates appointed to the Court Governance Advisory Committee may resign by written notice to the Chief Magistrate.

Section 12D provides that a quorum for a meeting of the Court Governance Advisory Committee is three members. Section 12E provides that the Deputy Chief Magistrate is to be the presiding member for all meetings at which the Deputy Chief Magistrate is present. If the Deputy Chief Magistrate is absent, the member chosen by the other members present presides over the meeting.

Section 12F provides that the Court Governance Advisory Committee is to decide matters by majority vote. In the event that the votes on a matter are equally divided, the presiding member has a casting vote. If a member of the Court Governance Advisory Committee becomes aware that they have a conflict of interest in relation to a particular matter being considered by the Court Governance Advisory Committee, they must advise the Court Governance Advisory Committee of the conflict and take no further part in consideration of the matter. A failure to declare a conflict of interest does not affect the Court Governance Advisory Committee's consideration of a matter or any transfer recommendation made in relation to the matter. Otherwise, the Court Governance Advisory Committee may conduct its meetings as it considers appropriate and may use technology such as teleconferencing.

Section 12G requires the Court Governance Advisory Committee to develop, in conjunction with the Chief Magistrate, a transfer policy to

guide decisions about the transfer of Magistrates. The policy may be amended from time to time. The section outlines core principles to be reflected in the policy but the policy will contain other matters considered appropriate by the Court Governance Advisory Committee. The core principles are that:

- Magistrates are expected to serve in regional areas.
- Transfers are generally for a period of between two and five years.
- Generally, expressions of interest should be called before a transfer decision is made. Expressions of interest would not normally need to be called in circumstances where a Magistrate was volunteering to be transferred to a particular place.
- If no expressions of interest are received then Magistrates who have not served in regional Queensland at all or for at least two years within the last ten years have priority for transfer over other Magistrates. However, to ensure that this requirement does not operate unfairly, the policy will also require the Court Governance Advisory Committee to consider a Magistrate's entire transfer history (that is, the number of places where a Magistrate has been transferred and the number of times a Magistrate has changed residence because of a transfer). "Regional Queensland" is defined to mean that part of Queensland outside the Beenleigh, Brisbane, Caboolture, Cleveland, Gold Coast, Gympie, Ipswich, Maroochydore, Petrie, Redcliffe and Toowoomba Magistrates Courts districts.
- A Magistrate is to be consulted before a decision is made to transfer the Magistrate.
- A Magistrate's personal circumstances must be considered before a decision is made to transfer the Magistrate.

Section 12H replaces previous section 18A of the Act. Under that section, a Magistrate could request to be transferred and a refusal by the Chief Magistrate to transfer the Magistrate could be reviewed by the judicial committee. Under section 12H, a Magistrate may at any time express a willingness to constitute a Magistrates Court at a particular place. The Chief Magistrate must advise the Court Governance Advisory Committee of the Magistrate's willingness. The Court Governance Advisory Committee may take into account the Magistrate's preference when considering proposals for the transfer of Magistrates in accordance with the transfer policy. There is no review process in connection with the

Court Governance Advisory Committee's consideration of such expressions of willingness to constitute a Magistrates Court at a particular place.

The provisions of the new Part 5B outline the process that must be followed when the Court Governance Advisory Committee makes a transfer recommendation and when the Chief Magistrate makes a transfer decision.

If a Magistrate requests to be transferred or if for any other reason a transfer decision is required to be made, section 12I provides that the Chief Magistrate must refer the matter to the Court Governance Advisory Committee for consideration and a transfer recommendation.

Section 12J provides that a Magistrate has a right to be heard where the Court Governance Advisory Committee is proposing to make a transfer recommendation about a particular Magistrate. The Court Governance Advisory Committee must give written notice of the proposed recommendation and allow the Magistrate 14 days in which to make representations. The Magistrate may make written or verbal submissions. If the Magistrate wishes to make verbal submissions it is enough if the Court Governance Advisory Committee allows the Magistrate to make the representation using technology such as teleconferencing. The intention is to make it clear that natural justice does not require that the Magistrate be able to make representations in person. Under section 12K, the Court Governance Advisory Committee is required to consider any representations made by the Magistrate having regard to the transfer policy.

When the Court Governance Advisory Committee makes a transfer recommendation, section 12L requires the Court Governance Advisory Committee to consider the transfer policy and provide concise reasons for the transfer recommendation to the Chief Magistrate.

Section 12M requires the Chief Magistrate to consider the transfer recommendation and the transfer policy when making a transfer decision. However, section 12N makes it clear that the Chief Magistrate is not bound by the Court Governance Advisory Committee's recommendation. If the Chief Magistrate accepts the transfer recommendation, the Chief Magistrate does not need to further consult with the relevant Magistrate before making a transfer decision about the Magistrate. However, if the Chief Magistrate proposes to make a transfer decision that differs from the transfer recommendation, before making the transfer decision, the Chief Magistrate must give written notice of the proposed decision and allow the affected Magistrate 14 days in which to make representations. The Magistrate may make written or verbal submissions. If the Magistrate

wishes to make verbal submissions it is enough if the Chief Magistrate allows the Magistrate to make the representation using technology such as teleconferencing.

Section 12O requires the Chief Magistrate to give notice of a transfer decision to the Magistrate and the Court Governance Advisory Committee and also give concise reasons for the decision. The Chief Magistrate is not required to give reasons why the Magistrate was chosen instead of another Magistrate.

Section 12P relates to temporary transfer decisions under section 10(2)(a) made because of urgent circumstances for a period of less than three months. The Chief Magistrate is not required to have regard to the transfer policy when making the decision and sections 12I, 12O and 12S do not apply to the determination. This means that there is no need to refer the matter to the Court Governance Advisory Committee for a recommendation or consult with the Magistrate before making the decision. A temporary transfer decision is not able to be reviewed under Part 5C and is not subject to the *Judicial Review Act 1991*. The Chief Magistrate must give written notice of a temporary transfer decision to the Magistrate subject to the decision.

The provisions of the new Part 5C relate to the judicial review of transfer decisions where the Chief Magistrate has not accepted the transfer recommendation made by the Court Governance Advisory Committee. Section 12Q provides that if the Chief Magistrate accepts the transfer recommendation made by the Court Governance Advisory Committee then there are no rights of review in relation to the transfer decision. However, there is limited judicial review where the Chief Magistrate makes a transfer decision that differs from the transfer recommendation (section 12R). The procedure outlined in Part 5C for the review of such decisions is a simplified version of the procedure contained in the *Uniform Civil Procedure Rules 1999* for an application for a statutory order of review under the *Judicial Review Act 1991*.

Section 12S provides that the Magistrate may apply to a Supreme Court Judge for a review of the transfer decision. The application for review must be made within 14 days after the Magistrate receives written notice of the transfer decision. The filing of an application for review operates as a stay on the transfer decision.

Under section 12T, the application for review must state the grounds on which the application is brought. The intention is that the requirement to state the grounds on which the application is brought requires that the particulars of the grounds also be stated.

Under section 12U the application for review must be filed in the Supreme Court registry in Brisbane. The applicant must file a copy of the written notice of the transfer decision and anything else on which the applicant intends to rely. Under section 12V, the registrar of the Supreme Court must set a time, date and place for a directions hearing before a Supreme Court Judge. Under section 12W, the applicant must give the Chief Magistrate a copy of the application for review and the documents filed under section 12U at least 14 days before the directions hearing.

Section 12X provides that, at the directions hearing, the Supreme Court Judge may make any orders or give any directions considered appropriate and, under section 12Y, the judge may hear and decide the application at the directions hearing if the parties agree.

Section 12Z provides that the judge may affirm the transfer decision or declare the decision to be of no effect. The only grounds on which the decision can be declared to be of no effect are that the decision was so unreasonable that no person having the functions of the Chief Magistrate could properly consider the transfer decision to be a reasonable exercise of the Chief Magistrate's discretion, or that the Magistrate was not afforded natural justice by the Chief Magistrate when being considered for transfer.

Section 12Z also limits the circumstances in which a Magistrate may be awarded costs. Each party must bear the party's own costs. However, the judge may award costs to a Magistrate if there are exceptional circumstances that, in the judge's opinion, make it appropriate to award costs. Exceptional circumstances are not established merely by virtue of the Magistrate being successful on the review application. The judge's decision on the transfer decision and on costs is final.

Clause 9 amends section 13 of the Act so that the section provides for part-time Magistrates as well as full-time Magistrates. Under the current section 13, a Magistrate is required to devote the whole of his or her time to the duties of the office of Magistrate. This obligation was able to be excluded in the appointment of an acting Magistrate to enable, for example, a clerk of the court appointed as acting Magistrate to continue to perform the duties of clerk of the court.

It is not appropriate for a part-time Magistrate to be obliged to devote the whole of his or her time to the duties of the office of Magistrate and consequently, the amended section 13(2) makes it clear that this obligation only applies to full-time Magistrates.

Sections 13(3) and 13(4) make it clear that full-time and part-time Magistrates may, with the approval of the Governor in Council, hold

another office or perform other duties if the office or duties are compatible with the office of Magistrate. Section 13 does not differentiate between acting Magistrates and other full-time Magistrates. Consequently, an acting Magistrate requires Governor in Council approval to perform other duties, but this approval could be provided at the time of appointment. A transitional provision has been included to cover any acting Magistrates appointed before the commencement of the amendments whose appointment excluded the operation of section 13(2).

There is an additional restriction in section 13(4) for part-time Magistrates. A part-time Magistrate may not engage in other employment without Governor in Council approval. The employment must also be compatible with the office of Magistrate. There is no need for a similar restriction on full-time Magistrates because of the obligation on a full-time Magistrate to devote the whole of his or her time to the office of Magistrate.

Section 13(6) requires a Magistrate to cease holding an office, performing duties or engaging in employment if required to do so by the Governor in Council.

Clause 10 replaces sections 15 to 17 which provide for the suspension and removal of Magistrates.

The Governor in Council can suspend a Magistrate from office under section 15(1). Before a Magistrate can be suspended under section 15(1), a Supreme Court Judge, on the application of the Attorney-General, must decide that there are reasonable grounds for believing that proper cause to remove the Magistrate exists (section 15(2)). Under section 15(3), the application for suspension must be given to the Magistrate at least 14 days before the application is to be heard.

Section 15(4) outlines the grounds for removing a Magistrate from office. A failure, without reasonable excuse, to comply with a transfer decision is included as a ground for removal.

If a Magistrate is suspended under section 15(1), a notice of suspension must be served on the Magistrate and published in the Gazette (section 15(6)) and the Attorney-General must, as soon as practicable, apply to the Supreme Court for a decision whether proper cause exists to remove the Magistrate (section 17(2)).

The Magistrate can appeal the suspension and on the appeal, the Supreme Court must decide whether proper cause exists to remove the Magistrate (sections 15(8)-(9) and section 17(5)). A Magistrate cannot be removed from office unless the Supreme Court decides that proper cause exists to remove the Magistrate (section 17(1)).

A suspension under section 15(1) lapses if the Supreme Court decides that proper cause to remove the Magistrate has not been established or if the Governor in Council lifts the suspension (section 15(5)). Notice of the lapsing of a suspension must be served on the Magistrate and published in the Gazette (section 15(6)).

In addition to the power of the Governor in Council to suspend a Magistrate under section 15(1), section 16(1) provides for the automatic suspension of a Magistrate who is charged with an indictable offence. “Indictable offence” is defined in section 3 to include an indictable offence dealt with summarily. Section 16(1) outlines the circumstances where a Magistrate will be considered to have been charged with an indictable offence. A suspension under section 16(1) continues if, on appeal from a conviction, the appellate court quashes the conviction but orders a new trial (section 16(2)). If a Magistrate is suspended under section 16(1), a notice of suspension must be served on the Magistrate and published in the Gazette (section 16(6)). A Magistrate cannot appeal a suspension under section 16(1) or 16(2).

A suspension under section 16(1) or a continued suspension under section 16(2) will lapse if the Magistrate is not convicted of any indictable offence, if no charge of an indictable offence is proceeded with, if the Governor in Council lifts the suspension or if the Supreme Court decides that proper cause to remove the Magistrate has not been established (sections 16(3)-(5)). Notice of the lapsing of a suspension must be served on the Magistrate and published in the Gazette (section 16(6)).

If a Magistrate is suspended under sections 16(1) or 16(2) and the suspension hasn’t lapsed (because the Magistrate is convicted of an indictable offence), the Attorney-General must, as soon as practicable after the proceedings for the offence have ended, apply to the Supreme Court for a decision about whether proper cause exists to remove the Magistrate (section 17(3)). This means that the application for removal should not be made until the appeal period has lapsed without an appeal having been commenced or, if an appeal has been started, the appeal has been finally decided or abandoned.

A Magistrate cannot be removed from office unless the Supreme Court decides (on an application under section 17(3)) that proper cause exists to remove the Magistrate (section 17(1)). However, section 17(4) provides that proper cause to remove the Magistrate may include conviction of an indictable offence. The Supreme Court would need to look at all the circumstances, including the gravity of the offence and whether or not a

conviction is recorded, to determine whether proper cause for removal is established.

A notice of removal must be served on a Magistrate who is removed from office under section 17. The notice must also be published in the Gazette (section 17(6)).

Section 16A provides that a Magistrate is entitled to remuneration during a period of suspension except if the Magistrate is convicted of the offence. However, a Magistrate may be remunerated for lost income if the conviction is quashed on appeal. If a conviction is quashed on appeal but a new trial is ordered, the Magistrate is entitled to remuneration during the new trial and may be reimbursed for income lost after conviction. A Magistrate may also be remunerated for lost income where the Supreme Court determines that proper cause to remove the Magistrate is not established.

Clause 11 amends section 18 to provide that a part-time Magistrate is entitled to the same salary and leave entitlements as a full-time Magistrate but on a proportional basis. In section 18 “determination” and “determined” are replaced with “decision” and “decided” to reflect modern drafting practice.

Clause 12 removes section 18A. This section is replaced by section 12H.

Clause 13 amends section 19 by replacing “determining” with “deciding” to reflect modern drafting practice.

Clause 14 inserts section 22A to provide for the renumbering of the Act.

Clause 15 inserts a new Part 8, Division 4 which outlines the transitional provisions. Section 28 confirms that the current Chief Magistrate holds office in accordance with the Act as amended and is covered by section 9A. Section 29 provides transitional provisions for acting Magistrates required because of the amendments to section 13. Section 30 confirms that the amended Act applies to all transfer decisions without regard to anything other than the places where a Magistrate has constituted a Magistrates Court and the length of time a Magistrate has constituted the Magistrates Court at those places.

PART 3—MINOR AND CONSEQUENTIAL AMENDMENTS

Clause 16 amends the Acts provided for in the Schedule. The Schedule refers to the *Freedom of Information Act 1992*, *Judicial Review Act 1991* and *Magistrates Act 1991*.

Section 11(1)(g) of the *Freedom of Information Act*, which stated that that Act does not apply to the judicial committee, is deleted. The judicial committee is abolished by the amendments.

The *Judicial Review Act* is amended to remove obsolete references and to make it clear that the *Judicial Review Act* does not apply to transfer decisions under section 5(5) or section 10(2)(a), recommendations by the Court Governance Advisory Committee to the Chief Magistrate under section 12L or to temporary determinations made under section 12P.

The *Magistrates Act 1991* is amended to remove a superfluous heading.