JUDICIARY AMENDMENT BILL (NO. 2) 1979

Date introduced: 25 October 1979
House: House of Representatives
Presented by: Hon. R.I. Viner, Minister representing the Attorney-General

Short Digest of Bill

Purpose

To remove from the Judiciary Act 1903 provisions about the administration of the High Court and to insert provisions about procedure.

Background

The granting of autonomy to the High Court in administrative matters (see Digest of High Court of Australia Bill 1979) has led to a general reorganization of the legislation relating to the High Court. Parts II and VIII of the Judiciary Act 1903 are to be re-enacted in the High Court of Australia Bill 1979. Other procedural provisions now in the High Court Procedure Act 1903 (to be repealed) are to be inserted in the Judiciary Act 1903.

Main Provisions

Part II and VIII are repealed (clauses 4 and 9).

Clause 7 amends section 23 so that the rule, in appeals from State Supreme Courts or Judges of those Courts, of affirming the decision appealed from if the High Court on appeal is equally divided, is now extended to apply in appeals from Territory Supreme Courts, the Federal Court and the Family Court and from Judges of those Courts.

Clause 6 amends section 21 so that it only applies to applications for special leave to appeal. Clause 8, 10, 11 and 12 make consequential amendments resulting from the seat of the Court being established and changes in the names of Court officers.

Clause 13 inserts Part XA dealing with procedure. These provisions have their origin in the High Court Procedure Act 1903 and a chart showing the corresponding provisions in that Act and Part XA has been circulated. Part XA covers matters such as trials, evidence, reserved judgments, judgment and execution, procedure for appeals and so on.

12 November 1979

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