



TASMANIA

Protocol for Judicial Appointments

Acting Judge

Supreme Court of Tasmania

31 August 2016

Protocol for Appointment of Acting Judges

The appointment of judicial officers is a prerogative of the Crown to be exercised by the Executive Council through Cabinet. Nothing that follows should be regarded as diminishing this prerogative.

Subject to the following exception, this protocol is to be applied to the appointment of acting judges under section 3 of the *Supreme Court Act 1887*.

Unless otherwise specified or directed by the Attorney-General in a particular case, this protocol does not apply to the appointment of an acting judge from outside Tasmania to preside over a case in circumstances where it would not be possible, expedient in the interests of justice or appropriate for the current judges of the Supreme Court to hear the matter.

Qualification for Appointment as an Acting Judge

The Attorney-General is only to give consideration to the appointment of retired judicial officers, and most particularly former judges of superior courts, to the office of acting judge.

Panel of Part-Time Acting Judges

If the Attorney-General is of the view that a temporary need is likely to arise which makes it necessary or desirable and in the public interest that a panel of part-time acting judges be appointed, the Attorney-General may commence the process to appoint suitably qualified persons to such a panel.

Call for Expressions of Interest

The Attorney-General may publicly call for expressions of interest in whatever manner is deemed most appropriate in the circumstances.

The Attorney-General may also invite any such suitably qualified persons to submit an expression of interest.

Responses are to be lodged with the Secretary of the Department of Justice and must contain a curriculum vitae and the names of three professional and confidential referees.

Assessment Panel

Expressions of interest will be assessed by a panel made up by a representative of a professional legal body chosen by the Attorney-General, the Secretary of the Department of Justice or his or her nominee and a nominee of the Attorney-General.

The assessment panel may make any appropriate inquiries of referees and may seek the views of third parties as to the suitability of any person for appointment.

Applicants will be recommended as suitable for appointment or not suitable for appointment. A statement of reasons for the recommendations will be provided to the Attorney-General.

Other Consultation

After receiving the assessment panel's recommendations, the Attorney-General may consult on a strictly confidential basis with whomever the Attorney-General sees fit.

If a person identified by the Attorney-General as a preferred candidate resumed practice as a legal practitioner after retiring as a judicial officer the Secretary of the Department of Justice will contact the Executive Director of the Law Society of Tasmania, President of the Tasmanian Bar and Chair of

the Legal Profession Board (or their successors in title) on a confidential basis seeking their comment on whether there is any reason (including impending disciplinary action) why the appointment should not proceed.

If the preferred candidate resumed practice in another jurisdiction a further check will also be made with the equivalent professional bodies in that jurisdiction.

If a preferred candidate has been retired from judicial office for more than 24 months, they must consent to a criminal history check being carried out.

The appointment of any acting judges must be considered by Cabinet prior to submission to the Executive Council in compliance with government policy on senior appointments.

Recommendation to Executive Council

Following consideration of the matter by Cabinet the Attorney-General will recommend an appointment or appointments to the Governor-in-Council. Once the Executive Council has issued an instrument of appointment the appointment may be announced by the Attorney-General.

Best endeavours will be made to contact the Opposition spokespersons and the various major bodies representing the interests of the legal profession to advise of the appointment before it is announced.