



Appointment of Solicitor-General

Law Officers Act 1964

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and:

- (a) under subsection 6(1) of the *Law Officers Act 1964* (the Act), appoint Stephen John Gageler SC as Solicitor-General of the Commonwealth of Australia for a period of 5 years beginning on 1 September 2008; and
- (b) under subsection 6(3) of the Act, determine that the terms and conditions on which Stephen John Gageler SC holds office as Solicitor-General are, apart from matters for which the Act provides, that any necessary approval for leave is to be given by the Attorney-General.

Dated 30 MAY 2008

PM Jeffery
Governor-General

By His Excellency's Command

A handwritten signature in black ink, appearing to read 'Robert McClelland', written in a cursive style.

ROBERT MCCLELLAND
Attorney-General

Note In accordance with section 7 of the Act, the Remuneration Tribunal has determined remuneration and other benefits that the Solicitor-General is to receive. At the date of this appointment the remuneration and allowances are those set out in Determination 2007/13.



**COMMISSION OF APPOINTMENT OF A JUSTICE
OF THE HIGH COURT OF AUSTRALIA**

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 72 of the *Constitution* and section 5 of the *High Court of Australia Act 1979*, appoint

STEPHEN JOHN GAGELER SC

learned in the law, to be a Justice of the High Court of Australia, commencing on 9 October 2012 until he attains the age of 70 years.

Signed and Sealed with the
Great Seal of Australia on

21st Aug 2012

Governor-General

By Her Excellency's Command

NICOLA ROXON
Attorney-General

ENTERED ON RECORD by me, in Register of Patents No. 47
this twenty-first day of August 2012

Secretary to the Federal Executive Council

s 47F(1)



ATTORNEY-GENERAL

Departmental No.39.....

Minute Paper for the Executive Council

Executive Council Meeting No.14.....

Subject

The Constitution

High Court of Australia Act 1979

Appointment of a Justice of the High Court of Australia

Approved in Council

Recommended for the approval of Her Excellency the Governor-General in Council that, by Commission in the attached form and under section 72 of the *Constitution* and section 5 of the *High Court of Australia Act 1979*, she appoint Stephen John Gageler SC, to be a Justice of the High Court of Australia, commencing on 9 October 2012 until he attains the age of 70 years.

Quentin Bryce

Quentin Bryce
Governor-General

Nicola Roxon
Attorney-General

21 AUG 2012

Filed in the Records
of the Council

s 47F(1)

Secretary to the Executive Council

EXPLANATORY MEMORANDUM

Minute No. 39 of 2012 - Attorney-General

Subject - *The Constitution*
High Court of Australia Act 1979

Appointment of a Justice of the High Court of Australia

Section 72 of the *Constitution* provides that the Justices of the High Court shall be appointed by the Governor-General in Council. Such an appointment shall be for a term expiring upon the person appointed attaining the age of 70 years. The section also provides that a person may not be appointed as a Justice of the High Court if he has attained the age of 70 years.

Section 5 of the *High Court of Australia Act 1979* (the Act) provides that the High Court consists of the Chief Justice and six other Justices appointed by the Governor-General by commission.

Section 6 of the Act provides that, where there is a vacancy in the office of Justice of the Court, the Attorney-General shall, before an appointment is made to the vacant office, consult with the Attorneys-General of the States in relation to the appointment.

There will be a vacancy in an office of Justice of the High Court from 9 October 2012 when the Hon Justice William Gummow AC retires. The Attorneys-General of the States have been consulted in relation to Justice Gummow's replacement.¹ The Attorneys-General of the Territories, as well as other relevant individuals and organisations, were also invited to nominate suitable candidates.

Section 7 of the Act specifies the qualifications for appointment to the Court. A person may not be appointed as a Justice unless:

- (a) he is or has been a Judge of a court created by the Parliament or of a court of a State or Territory; or
- (b) he has been enrolled as a barrister or solicitor, as a barrister and solicitor, or as a legal practitioner, of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.

The Minute recommends the appointment of Mr Stephen John Gageler SC, to be a Justice of the High Court of Australia, commencing on 9 October 2012 until he attains the age of 70 years.

Mr Gageler is 54 years of age. He holds a Bachelor of Economics degree and a Bachelor of Laws degree, with first class honours, from the Australian National University (1980 and 1982 respectively) and a Masters of Laws from Harvard University (1987). Mr Gageler was admitted as a barrister and solicitor of the Supreme Court of the Australian Capital Territory and High Court of Australia in 1982.²



Mr Gageler worked as a solicitor for a year prior to serving as associate to the Hon Sir Anthony Mason KBE (then a Justice of the High Court) for two years. In 1985, he commenced at the Commonwealth Attorney-General's Department, initially as a legal officer and senior legal officer and then as a principal legal officer and assistant to the Solicitor-General. During this time Mr Gageler also tutored in Constitutional Law at the Australian National University.

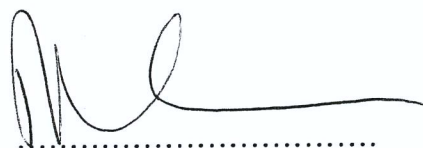
In 1989, Mr Gageler was admitted as a barrister of the Supreme Court of New South Wales. He joined Eleven Wentworth Chambers and worked principally in the areas of constitutional law, administrative law, revenue law, competition law and commercial law. In 2000, Mr Gageler was appointed Senior Counsel. He was Convenor of the Constitutional Law Section of the New South Wales Bar Association from 2000 until 2008.

In 2008, Mr Gageler was appointed Solicitor-General of the Commonwealth.

A curriculum vitae for Mr Gageler is attached.

The Minute recommends that the appointment be made in the form proposed.

1. In accordance with section 6 of the *High Court of Australia Act 1979*, I have consulted with the Attorneys-General of the States in relation to the proposed appointment.
2. Mr Gageler satisfies the qualifications for appointment as a Justice of the High Court of Australia specified at paragraph 7(b) of the *High Court of Australia Act 1979*, by virtue of having been enrolled as a legal practitioner of the Supreme Court of the Australian Capital Territory and the High Court of Australia for more than five years.



.....
Attorney-General

Authority Section 72 of the
Constitution and section 5
of the *High Court of
Australia Act 1979*.



CURRICULUM VITAE

Name: Stephen John GAGELER SC

Address: Solicitor-General of Australia
3-5 National Circuit
BARTON ACT 2600

Date of birth: 5 July 1958

Present position: Solicitor-General of the Commonwealth

Educational and professional qualifications:

Appointed Senior Counsel, 2000

Admitted, Barrister, Supreme Court of New South Wales, 1989

Admitted, Barrister and Solicitor, Supreme Court of the Australian Capital Territory and High Court of Australia, 1982

Master of Laws, Harvard University, 1987

Bachelor of Laws (First Class Hons), Australian National University, 1982

Bachelor of Economics, Australian National University, 1980

Relevant experience:

1989-2008: Barrister, Eleven Wentworth Chambers, Sydney

1987-89: Principal Legal Officer and Assistant to Solicitor-General, Commonwealth Attorney-General's Department

1985-87: Legal Officer and Senior Legal Officer, Commonwealth Attorney-General's Department

1983-85: Associate to the Hon Sir Anthony Mason KBE (then a Justice of the High Court)

1982-83: Solicitor, Elringtons Solicitors, Canberra

Former Board Memberships:

2006-08: Editor, *Australian Law Reports*

2003-04: Chairman, Board of Eleven Wentworth Limited

2000-08: Convenor, Constitutional Law Section, New South Wales Bar Association

1996-2006: Member, Administrative Review Council





**ATTORNEY-GENERAL
CABINET SECRETARY**

Departmental No. 308

Minute Paper for the Executive Council

Executive Council Meeting No. 16

Subject

The Constitution

High Court of Australia Act 1979

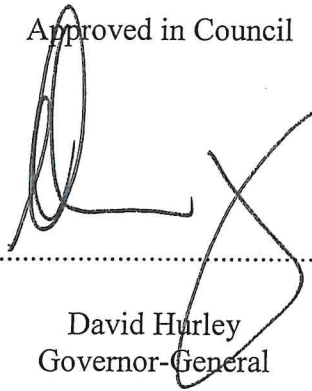
Commission of Appointment of a Chief Justice^{s 22 -} of the High Court of Australia | |

Recommended for the approval of His Excellency the Governor-General in Council that, by Commission in the attached form and under section 72 of the *Constitution* and section 5 of the *High Court of Australia Act 1979*, he appoint:

- (i) The Hon Justice Stephen John Gageler AC as the Chief Justice of the High Court of Australia, commencing on 6 November 2023 until he attains the age of 70 years.

s 22 - irrelevant material

Approved in Council


David Hurley
Governor-General

22 August 2023

Filed in the Records of the Council

s 47F(1)

Secretary to the Executive Council


Mark Dreyfus KC
Attorney-General
Cabinet Secretary



The Constitution

High Court of Australia Act 1979

**COMMISSION OF APPOINTMENT OF THE CHIEF JUSTICE
OF THE HIGH COURT OF AUSTRALIA**

I, His Excellency General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 72 of the *Constitution* and section 5 of the *High Court of Australia Act 1979*, appoint

The Honourable Stephen John Gageler

Justice of the High Court of Australia and Companion of the Order of Australia, to be the Chief Justice of the High Court of Australia, commencing on 6 November 2023, until he attains the age of 70 years.



Signed and Sealed with the
Great Seal of Australia on
22 August 2023

David Hurley
Governor-General

By His Excellency's Command

Mark Dreyfus KC
Attorney-General
Cabinet Secretary

ENTERED ON RECORD by me, in Register of Patents No. 58 page 45, on 22 August 2023 s 47F(1)

Secretary to the Federal Executive Council

EXPLANATORY MEMORANDUM

Minute No. 308 of 2023 - Attorney-General and Cabinet Secretary

Subject - *The Constitution*

High Court of Australia Act 1979

Appointment of the Chief Justice and a Justice of the High Court of Australia

The proposed commissions would appoint the Chief Justice and a Justice of the High Court of Australia.

Section 72 of the *Constitution* provides that the Justices of the High Court, including the Chief Justice, shall be appointed by the Governor-General in Council. Such an appointment shall be for a term expiring upon the person appointed attaining the age of 70 years. The section further provides that a person may not be appointed as a Justice of the High Court if he has attained the age of 70 years.

Section 5 of the *High Court of Australia Act 1979* (the Act) provides that the High Court consists of the Chief Justice and six other Justices appointed by the Governor-General by commission. Section 6 of the Act provides that, where there is a vacancy in the office of Justice of the High Court, the Attorney-General shall, before an appointment is made to the vacant office, consult with the Attorneys-General of the States in relation to the appointment.

A vacancy in the office of Chief Justice of the High Court will exist from 6 November 2023 as the Honourable Chief Justice Susan Kiefel AC has resigned her commission as Chief Justice of the High Court to take effect from midnight on 5 November 2023. This has been taken to mean that Chief Justice Kiefel's last day in the position of Chief Justice of the High Court will be Sunday 5 November 2023, to allow her successor to commence on Monday 6 November 2023, which is the first day of the November sittings of the High Court. This date is earlier than her mandatory retirement of 17 January 2024 upon which she attains the age of 70 years. Chief Justice Kiefel advised that it is in the best interests of the administration of the High Court that her successor should commence on the first day of the High Court's November sittings.

In accordance with section 6 of the Act, the Attorneys-General of the States have been consulted. This consultation has also been extended to the Attorneys-General of the Territories, heads of jurisdictions of the Federal courts, State and Territory Supreme Courts and the Family Court of Western Australia, the Shadow Attorney-General, the Law Council of Australia and the Australian Bar Association, as well as their State and Territory counterparts, and deans of university law schools.

Section 7 of the Act specifies the qualifications for appointment to the High Court. A person may not be appointed as a Justice unless:

- (a) he or she is or has been a Judge of a court created by the Parliament or of a court of a State or Territory; or
- (b) he or she has been enrolled as a barrister or solicitor, as a barrister and solicitor, or as a legal practitioner, of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.



The Minute proposes:

- The appointment of the *Hon Justice Stephen James Gageler AC as the Chief Justice of the High Court*, commencing on 6 November 2023, until he attains the age of 70 years.

s 22 - irrelevant material

The appointment of Justice Gageler as the Chief Justice will fill the vacancy which arises upon the resignation of Chief Justice Kiefel taking effect. Justice Gageler is 65 years of age and is eminently qualified for appointment as the Chief Justice of the High Court. Justice Gageler is the most senior of the High Court's puisne justices, and is highly regarded for his deep knowledge and understanding of constitutional law. This is reflected in the number of nominations received (13) by members of the legal profession, making him the candidate with the highest overall nominations for appointment.

s 22 - irrelevant material

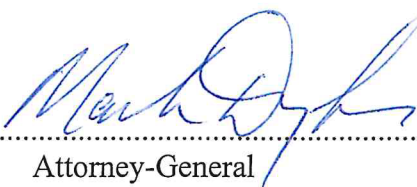
The Curricula Vitae for Justice Gageler s 22 - irrelevant material

The Minute recommends that the appointments be made in the form proposed.

I certify that in accordance with section 6 of the *High Court of Australia Act 1979*, I have consulted with the Attorneys-General of the States in relation to the proposed appointments.

I certify that in accordance with section 7 of the *High Court of Australia Act 1979* that the Hon Justice Stephen John Gageler AC satisfies the qualifications for appointment as the Chief Justice of the High Court of Australia specified at paragraph 7(a) of the *High Court of Australia Act 1979*, by virtue of having been appointed as a Justice of the High Court of Australia since 2012.

s 22 - irrelevant material



.....
 Attorney-General
 Cabinet Secretary

Authority: Section 72 of the *Constitution* and section 5 of the *High Court of Australia Act 1979*

CURRICULUM VITAE

Name: Stephen John Gageler AC

Former name (s): N/A

Residential address: s 47F(1)

Date of birth: 5 July 1958

Present position: Justice, High Court of Australia

Educational and professional qualifications:

- 2000: Appointed Senior Counsel
- 1989: Admitted as a Barrister of the Supreme Court of New South Wales
- 1987: Masters of Laws, Harvard University
- 1982: Admitted as a Barrister and Solicitor of the Australian Capital Territory and the High Court
- 1982: Bachelor of Laws, First Class Honours, Australian National University
- 1980: Bachelor of Economics, Australian National University

Relevant experience:

- 2012-present: Justice, High Court of Australia
- 2008-2012: Solicitor General of Australia
- 1989-2008: Barrister, Wentworth Chambers
- 1985-1989: Attorney-General's Department, various positions, including Assistant to the Solicitor-General from 1987
- 1983-1985: Associate to the Hon Sir Anthony Mason AC KBE GBE KC, then Justice of the High Court of Australia
- 1982-1983: Solicitor, Canberra

EEO categories (if available): N/A