

JUDGES' PENSIONS ACT.

Act No. 41, 1953.

An Act to make provision for pensions for judges and for the widows of deceased judges and deceased retired judges; to amend the Supreme Court and Circuit Courts Act, 1900, the District Courts Act, 1912, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 16th December, 1953.]

Elizabeth II,
No. 41, 1953.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Judges' Pensions Act, 1953."

Short title
and com-
mencement.

(2) This Act shall commence on the first day of January, one thousand nine hundred and fifty-four.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

Definitions.

"Judge" means a person holding the office of Chief Justice or puisne judge of the Supreme Court of New South Wales, President or other member of the Industrial Commission of New South Wales, Chairman of the Crown Employees Appeal Board, Chairman of the District Court Judges, District Court judge, or Chairman or other member of the Workers' Compensation Commission.

"Salary" means salary at the annual rate payable to a judge immediately before his retirement or his death before retirement, as the case may be.

3.

Judges' Pensions Act.

No. 41, 1953.

Pension to judge retiring at age seventy.

3. Where a judge retires from his judicial office in accordance with the provisions of the Judges Retirement Act, 1918, subsection two of section fourteen of the the Industrial Arbitration Act, 1940-1953, subparagraph (iv) of paragraph (c) of subsection two of section four of the Crown Employees Appeal Board Act, 1944-1953, or paragraph (b) of subsection three of section thirty-one of the Workers' Compensation Act, 1926-1953, as the case may be, he shall, if he has served as a judge in that judicial office for five years, be entitled to an annual pension at the rate of twenty-five per centum of his salary, and at the additional rate of three and one-half per centum of his salary for each complete year of his service as a judge in that judicial office in excess of five years, but so that the rate of his pension shall not exceed sixty per centum of his salary.

Pension to judge retiring voluntarily at or after age sixty.

4. A judge who has attained the age of sixty years and has served as a judge for not less than ten years may retire voluntarily from his judicial office, and on so retiring shall be entitled to an annual pension in all respects as if he had attained the age of seventy years and had retired from that office in accordance with law.

Pension to judge retiring on account of ill-health.

5. Where a judge retires from his judicial office, and the Director-General of Public Health certifies that his retirement is by reason of permanent disability or infirmity—

(a) he shall, if his retirement occurs after he has served as a judge in that judicial office for not less than five years, be entitled, on retiring, to an annual pension in all respects as if he had attained the age of seventy years and had retired from that office in accordance with law;

(b) he shall, in any other case, be entitled, on retiring, to an annual pension at the rate of twenty-five per centum of his salary.

Pension to widow on death of judge before retirement.

6. Where a judge dies before his retirement, his widow shall be entitled to an annual pension at the rate of one-fifth of his salary:

Provided that, if the widow remarries, her pension under this section shall thereupon cease and determine.

7.

7. Upon the death of a retired judge who was, immediately before his death, in receipt of pension under this Act, his widow shall be entitled to an annual pension, if her marriage to the judge took place before his retirement, at the rate of one-fifth of the salary payable to him immediately before his retirement:

No. 41, 1953.

Pension to widow on death of retired judge.

Provided that, if the widow remarries, her pension under this section shall thereupon cease and determine.

8. (1) In this section "prior judicial office" means any of the judicial offices referred to in the definition of "Judge" in section two of this Act which a judge held before he was appointed to the judicial office which he held immediately before his retirement or his death before retirement, as the case may be.

Prior judicial service under the State.

(2) Any period served by a judge in any prior judicial office shall be computed as portion of his service as a judge in the judicial office which he held immediately before his retirement or his death before retirement, as the case may be:

Provided that, where the annual rate of salary payable to the judge immediately before his retirement or his death before retirement, as the case may be, is greater than the annual rate of salary which would have been so payable to him had he continued to hold the prior judicial office, such part only of his service in that office as bears to his total service in that office the same proportion as the annual rate of salary which would have been so payable bears to the annual rate of salary actually payable to the judge immediately before his retirement or his death before retirement, as the case may be, shall be computed as portion of his service as a judge in the judicial office which he held immediately before his retirement or his death before retirement, as the case may be.

(3) Any period during which a judge has served as an acting judge of the Supreme Court of New South Wales, an acting member of the Industrial Commission of New South Wales, acting Chairman of the Crown Employees Appeal Board, or an acting judge of any District Court shall be deemed to be a period served by the judge in a prior judicial office within the meaning of subsection two of this section.

9.

Judges' Pensions Act.

No. 41, 1953.

Prior
judicial
service
under the
Common-
wealth.

9. Where a judge was within one month before his appointment serving in any judicial office under the Commonwealth, the Governor may, within one month after the judge's appointment takes effect or, where the judge is serving as a judge at the commencement of this Act, within one month after such commencement, by proclamation published in the Gazette, declare that the provisions of section eight of this Act shall extend to and in respect of the judge's period of service in that office.

The provisions of that section shall thereupon extend to and in respect of that period in all respects as if it were a period served by the judge in a prior judicial office within the meaning of that section.

Payment
of
pensions.

10. All pensions payable under or by virtue of this Act—

- (a) shall accrue from day to day;
- (b) shall be payable monthly;
- (c) shall be charged upon and payable out of the Consolidated Revenue Fund.

Applica-
tion of
Act.

11. (1) The provisions of sections two to ten, both inclusive, of this Act shall apply to and in relation to—

- (a) every judge who is appointed after the commencement of this Act; and
- (b) every judge who is serving as a judge at the commencement of this Act.

(2) The provisions of section seven of this Act shall apply in relation to any person who, having retired from the office of judge, was immediately before the commencement of this Act in receipt of a pension under any provision of an Act mentioned in section thirteen of this Act.

Persons in
receipt of
pensions at
commence-
ment of
Act.

12. (1) Any person who, having retired from the office of judge, was immediately before the commencement of this Act in receipt of a pension under any provision of an Act mentioned in section thirteen of this Act shall, subject to subsection two of this section, continue to receive that pension as if the amendments made by section thirteen of this Act had not been enacted.

(2)

(2) The rate of annual pension payable after the commencement of this Act to any person to whom subsection one of this section applies shall be calculated as if immediately before the date of his retirement subsection three of section twelve of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, or, as the case may be, paragraph (b) of subsection two of section twenty of the District Courts Act, 1912, as amended by subsequent Acts, had been amended—

- (a) by omitting the words "twenty one-hundredths" and by inserting in lieu thereof the words "twenty-five per centum";
- (b) by omitting the words "three one-hundredths" and by inserting in lieu thereof the words "three and one-half per centum";
- (c) by omitting the word "one-half" and by inserting in lieu thereof the words "sixty per centum".

13. (1) (a) The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, is amended—

- (i) by omitting from the short heading appearing immediately before section eleven the words "*and pensions*";

(ii) by omitting section twelve.

(b) The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Supreme Court and Circuit Courts Act, 1900-1953.

(2) (a) The District Courts Act, 1912, as amended by subsequent Acts, is amended by omitting section twenty.

(b) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Act, 1912-1953.

(3) (a) The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is amended—

- (i) by omitting from subsection two of section fourteen the word "pension" where firstly occurring;

(ii)

No. 41, 1953.

Amendment of Act No. 35, 1900.

Sec. 11. Short heading.

Sec. 12.

(Pension.)

Amendment of Act No. 23, 1912.

Sec. 20.

Amendment of Act No. 2, 1940.

Sec. 14.

(Industrial Commission.)

Judges' Pensions Act.**No. 41, 1953.**

- (ii) by omitting from the same subsection the words "and pension";
- (iii) by omitting subsection (2A) of the same section.

(b) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1953.

Amendment
of Act No. 15,
1926.
Sec. 31.
(Appointment
of
Commission.)

(4) (a) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is amended by omitting from paragraph (a) of subsection three of section thirty-one the word "pension" wherever occurring.

(b) The Workers' Compensation Act, 1926, as amended by subsequent Acts and by this Act, may be cited as the Workers' Compensation Act, 1926-1953.

Amend-
ment of
Act No.
15, 1944.
Sec. 4.
(Chair-
man.)

(5) (a) The Crown Employees Appeal Board Act, 1944, as amended by subsequent Acts, is amended—

- (i) by omitting from paragraph (a) of subsection two of section four the words "section twelve of the Supreme Court and Circuit Courts Act, 1900-1941" and by inserting in lieu thereof the words "the Judges' Pensions Act, 1953";
- (ii) by omitting from paragraph (b) of the same subsection the words "section fourteen of the Industrial Arbitration Act, 1940-1943" and by inserting in lieu thereof the words "the Judges' Pensions Act, 1953";
- (iii) by omitting from subparagraph (ii) of paragraph (c) of the same subsection the word "pension";
- (iv) by omitting from subparagraph (iii) of the same paragraph the words "and pension".

(b) The Crown Employees Appeal Board Act, 1944, as amended by subsequent Acts and by this Act, may be cited as the Crown Employees Appeal Board Act, 1944-1953.