

JUDGES' PENSIONS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 69, 1972.

An Act to make further provision for pensions for retired judges and for the widows of deceased judges and of deceased retired judges; to make provision for pensions for retired masters of the Supreme Court and widows of deceased masters and deceased retired masters; for these and other purposes to amend the Judges' Pensions Act, 1953, and the Supreme Court Act, 1970; and for purposes connected therewith. [Assented to, 30th November, 1972.]

BE

Judges' Pensions (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 69, 1972** 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. This Act may be cited as the "Judges' Pensions **Short title.**
(Amendment) Act, 1972".

2. This Act shall be deemed to have commenced on 1st **Commence-**
July, 1972. **ment.**

3. The Judges' Pensions Act, 1953, is amended— **Amendment**
of Act No.
41, 1953.

(a) by inserting at the end of section 3 the following **Sec. 3.**
new subsections:— **(Pension**
to judge
retiring
at age
seventy.)

(2) Notwithstanding subsection (1), where an amount equal to seventy-five per centum of the pension that would be payable under subsection (1) to a person if he were to retire from the same judicial office, having had the same judicial service, as another judge who has previously retired is greater than the annual pension to which that other judge would, but for this subsection, be entitled under subsection (1), that other judge shall be entitled to an annual pension equal to that amount.

(3) Subsection (2) has effect from time to time whenever it would operate to increase the pension of the other judge referred to in that subsection.

(4)

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(4) A person who is entitled to a pension under subsection (2) is not entitled to a pension under subsection (1).

Sec. 5.
(Pension to judge retiring on account of ill-health.)

(b) by inserting at the end of section 5 the following new subsections :—

(2) Notwithstanding subsection (1) (b), where an amount equal to seventy-five per centum of the pension that would be payable under subsection (1) (b) to a person if he were to retire in the same circumstances from the same judicial office, having had the same judicial service, as another judge who has previously retired is greater than the annual pension to which that other judge would, but for this subsection, be entitled under subsection (1) (b), that other judge shall be entitled to an annual pension equal to that amount.

(3) Subsection (2) has effect from time to time whenever it would operate to increase the pension of the other judge referred to in that subsection.

(4) A person who is entitled to a pension under subsection (2) is not entitled to a pension under subsection (1).

Sec. 6.
(Pension to widow on death of judge before retirement.)

(c) by inserting at the end of section 6 the following new subsections :—

(2) Notwithstanding subsection (1), where an amount equal to seventy-five per centum of the pension that would be payable under subsection (1) to the widow of a deceased judge if he were to die whilst holding the same judicial office, having had the same judicial service, as another judge who has previously died is greater than the annual pension to which the widow of that other judge would, but for this subsection, be entitled under subsection (1), the widow of that other judge shall be entitled to an annual pension equal to that amount.

(3)

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(3) Subsection (2) has effect from time to time whenever it would operate to increase the pension of the widow of the other judge referred to in that subsection. No. 69, 1972

(4) A person who is entitled to a pension under subsection (2) is not entitled to a pension under subsection (1).

(d) by inserting at the end of section 7 the following new subsections :—

(2) Notwithstanding subsection (1), where an amount equal to seventy-five per centum of the pension that would be payable under subsection (1) to the widow of a deceased retired judge if he were to die after retiring from the same judicial office, having had the same judicial service, as another judge who has previously retired and died is greater than the annual pension to which the widow of that other judge would, but for this subsection, be entitled under subsection (1), the widow of that other judge shall be entitled to an annual pension equal to that amount. Sec. 7.
(Pension to widow on death of retired judge.)

(3) Subsection (2) has effect from time to time whenever it would operate to increase the pension of the widow of the other judge referred to in that subsection.

(4) A person who is entitled to a pension under subsection (2) is not entitled to a pension under subsection (1).

(e) (i) by omitting section 8 (1) and by inserting instead the following subsection :—

(1) In this section, "prior judicial office" means— Sec. 8.
(Prior judicial service.)

(a) any judicial office referred to in the definition of "Judge" in section 2; and

(b)

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(b) the office of—

- (i) judge of the High Court of Australia;
- (ii) judge of the Supreme Court of the Australian Capital Territory; or
- (iii) judge of the Commonwealth Industrial Court,

which a judge held before he was appointed to the judicial office which he held immediately before his retirement or death before retirement, as the case may be.

- (ii) by omitting from section 8 (2) the following words :—

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

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the judicial office which he held immediately before his retirement or his death before retirement, as the case may be. No. 69, 1972

- (f) by omitting section 9 and by inserting instead the following section :— Subst. sec. 9.

9. A person is not entitled to receive a pension under this Act if he is receiving a pension under a law of the Commonwealth which makes provision for the payment of a pension to a person by virtue of his having held the office of judge of the High Court of Australia, judge of the Supreme Court of the Australian Capital Territory or judge of the Commonwealth Industrial Court. Dual pensions.

- (g) by inserting next after section 11 the following new section :— New sec. 11A.

11A. The provisions of sections 2 to 7, both inclusive, and of sections 9 and 10, apply to a person, or the widow of a person, who has held office as a master under the Supreme Court Act, 1970, in the same way as they apply to a judge, the widow of a judge or the widow of a retired judge and as if that person's office as master were a judicial office. Pensions to masters and their widows.

4. The Supreme Court Act, 1970, is amended— Amendment of Act No. 52, 1970.

- (a) by omitting from section 14 (3) the words "The holder immediately before the commencement of this Act of the office of Master in Equity and any Sec. 14. (Masters.)

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previous holder of that office and the widow of any of them” and by inserting instead the words “A person who held office as Master in Equity at any time before the person who held that office immediately before the commencement of this Act and the widow of any such first-mentioned person”;

Sec. 112.
(Terms of
appoint-
ment.)

(b) by omitting from section 112 the words “pension or otherwise” and by inserting instead the words “or otherwise, except as to pension”.

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