



New South Wales

Judges' Pensions Regulation 2017

under the

Judges' Pensions Act 1953

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Judges' Pensions Act 1953*.

MARK SPEAKMAN, MP
Attorney General

Explanatory note

The object of this Regulation is to remake, with no substantial changes, the *Judges' Pensions Regulation 2012* which is repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the calculation of reductions of pensions payable to former judges or to former judges' spouses or children if an election is made to pay for the superannuation contributions surcharge by commuting part of a pension (the superannuation contributions surcharge being a tax imposed on contributions to superannuation by Commonwealth law).

This Regulation is made under the *Judges' Pensions Act 1953*, including sections 12, 12A and 18 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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1 Name of Regulation

This Regulation is the *Judges' Pensions Regulation 2017*.

2 Commencement

This Regulation commences on 1 September 2017 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Judges' Pensions Regulation 2012* which is repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

reversionary pension has the same meaning as it has in section 12A of the Act.

the Act means the *Judges' Pensions Act 1953*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Calculation of reduced pension of retired judge

(1) For the purposes of section 12 (7) of the Act, the amount of the reduced pension payable to a retired judge under section 3 or 5 of the Act is to be calculated by using the reduced percentage of the notional judicial salary calculated in accordance with this clause.

(2) The reduced percentage of the notional judicial salary is to be determined in accordance with the following formula:

$$R = I - \frac{100 \times S}{N \times (PCF + (f \times RCF))}$$

where:

R is the reduced percentage of notional judicial salary.

I is the percentage of notional judicial salary that would be applicable to calculation of the pension if there were no reduction under section 12 of the Act.

S is the amount of the liability for superannuation contributions surcharge.

N is the notional judicial salary of the judge at retirement.

PCF is the relevant pension contribution factor determined by the Attorney General from time to time in accordance with actuarial advice.

f is the ratio of SP to I.

SP is the percentage of notional judicial salary that would be applicable to calculation of the pension of a surviving spouse of the judge if there were no reduction under section 12 or 12A of the Act.

RCF is the relevant reversionary pension contribution factor determined by the Attorney General from time to time in accordance with actuarial advice.

5 Calculation of reduced pension payable to surviving spouse

- (1) For the purposes of sections 12 (7) and 12A (2) of the Act, the amount of the reduced pension payable under section 6 of the Act to a surviving spouse of a judge or retired judge is to be calculated by using the reduced percentage of the notional judicial salary calculated in accordance with this clause.
- (2) The reduced percentage of the notional judicial salary is to be determined in accordance with the following formula:

$$W = f \times R$$

where:

W is the reduced percentage of notional judicial salary.

f is the ratio of SP to I.

SP is the percentage of notional judicial salary that would be applicable to calculation of the pension of the surviving spouse if there were no reduction under section 12 or 12A of the Act.

I is the percentage of notional judicial salary that would be applicable to calculation of the pension of the judge if the judge died after retirement and there were no reduction under section 12 of the Act.

R is the reduced percentage of notional judicial salary that was (if the judge died after retirement), or would have been (if the judge had died after retirement), applicable to the judge concerned calculated in accordance with clause 4.

6 Calculation of reduced pension payable to children

For the purposes of section 12A (2) of the Act, in calculating a reversionary pension payable under section 7B or 7C of the Act:

- (a) the annual amount of pension referred to in section 7B (2) (b) of the Act is the reduced amount of pension that would have been payable to the judge in accordance with clause 4, and
- (b) the annual amount of pension referred to in section 7C (2) (b) of the Act is the reduced amount of pension that would have been payable to the surviving spouse in accordance with clause 5.

7 Savings

Any act, matter or thing that had effect under the *Judges' Pensions Regulation 2012* immediately before the repeal of that Regulation is taken to have effect under this Regulation.