



Western Australia

## **Judges' Retirement Act 1937**

Compare between:

[01 Feb 2005, 02-b0-05] and [28 Jun 2010, 02-c0-01]



## **Judges' Retirement Act 1937**

**An Act to provide for the retirement of Judges of the Supreme Court and to provide for their pensions on such retirement; to amend the *Constitution Act 1889* and the *Supreme Court Act 1935*; and for other purposes consequent thereon and incidental thereto.**

### **1. Short title and construction**

- (1) This Act may be cited as the *Judges' Retirement Act 1937*<sup>1</sup>.
- (2) This Act shall be read and construed with and as an amendment of the *Constitution Act 1889* (52 Vict., No. 23), and the *Supreme Court Act 1935* (No. 36 of 1935).

### **2. Interpretation**

In this Act —

**Judge** means and includes any person appointed to and holding any of the following offices —

- (a) Chief Justice of Western Australia; or
- (aa) President of the Court of Appeal; or
- (b) Judge of the Supreme Court of Western Australia; or
- (c) Acting Judge or Auxiliary Judge of the Supreme Court of Western Australia; or
- (ca) Master or acting Master of the Supreme Court of Western Australia; or

- (d) a Commissioner of the Supreme Court of Western Australia appointed under section 49 of the *Supreme Court Act 1935*.

*[Section 2 amended by No. 23 of 1997 s. 11; No. 45 of 2004 s. 34(2).]*

**3. Retirement of Judges**

Notwithstanding anything to the contrary contained in the *Constitution Act 1889*, or in the *Supreme Court Act 1935*, but subject to —

- (a) section 11AA of the latter Act; or
- (b) sections 16 and 18A of the *District Court of Western Australia Act 1969*,

as the case requires, every Judge appointed after the commencement of this Act who shall attain the age of 70 years shall retire from office on the day on which he attains such age, and thereupon the office of such Judge shall by virtue of this Act become vacant:

Provided that any Judge who ceases to hold office under this section on attaining the age of 70 years may nevertheless complete the hearing and determination of any action, cause, matter, trial or proceeding that was pending before him immediately before attaining that age:

Provided further, that this section shall not apply to any Judge who holds office as a puisne Judge at the date of the commencement of this Act and who is hereafter appointed to the office of Chief Justice.

*[Section 3 amended by No. 23 of 1997 s. 12; No. 45 of 2004 s. 34(3).]*

**4. Resignation of judges**

- (1) A Judge may at any time resign from office by giving his written and signed resignation to the Governor.

- (2) If the Governor agrees to the resignation, it takes effect on the day on which the Governor agrees to it or on any later day that it may specify.
- (3) A Judge who resigns from office may complete the hearing and determination of any action, cause, matter, trial or proceeding that was pending before him immediately before his resignation took effect and for that purpose the Judge's appointment is to be taken to be extended until he has done so.

*[Section 4 inserted by No. 45 of 2004 s. 34(4).]*

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## Notes

- <sup>1</sup> This is a compilation of the *Judges' Retirement Act 1937* and includes the amendments made by the other written laws referred to in the following table [1a](#). The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Judges' Retirement Act 1937</i>	8 of 1937	8 Dec 1937	8 Dec 1937
<i>Judges' Salaries and Pensions Act 1950 s. 4</i>	35 of 1950	16 Dec 1950	16 Dec 1950
<b>Reprint of the <i>Judges' Retirement Act 1937</i> as at 19 Jan 1989</b> (includes amendments listed above)			
<i>Acts Amendment (Auxiliary Judges) Act 1997 Pt. 4</i>	23 of 1997	18 Sep 1997	18 Sep 1997 (see s. 2)
<b>Reprint 2: The <i>Judges' Retirement Act 1937</i> as at 5 Dec 2003</b> (includes amendments listed above)			
<i>Acts Amendment (Court of Appeal) Act 2004 s. 34</i>	45 of 2004	9 Nov 2004	1 Feb 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)

- [1a](#) On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

<u>Short title</u>	<u>Number and year</u>	<u>Assent</u>	<u>Commencement</u>
<u><i>Standardisation of Formatting Act 2010 s. 51</i></u> <sup>3</sup>	<u>19 of 2010</u>	<u>28 Jun 2010</u>	<u>To be proclaimed (see s. 2(b))</u>

- <sup>2</sup> Marginal notes in the *Judges' Retirement Act 1937* referring to legislation of other jurisdictions have been omitted.

- <sup>3</sup> On the date as at which this compilation was prepared, the *Standardisation of Formatting Act 2010 s. 51* had not come into operation. It reads as follows:

**51. Various written laws amended**

(1) This section amends the written laws listed in the Table.

(2) Amend the provisions listed in the Table as set out in the Table.

**33. Judges' Retirement Act 1937**

s. 3	<u>Notwithstanding vacant:</u> <u>Provided that any age:</u> <u>Provided further, that this</u>	<u>(1) Notwithstanding vacant.</u> <u>(2) Despite subsection (1), any age.</u> <u>(3) This</u>
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