

JUDGES' SALARIES AND PENSIONS.

14° and 15° Geo. VI., No. XXXV.

No. 35 of 1950.

AN ACT relating to Salaries and Pensions for Judges of the Supreme Court of Western Australia and to make provision for the Families of such Judges and for other purposes.

[Assented to 16th December, 1950.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Judges' Salaries and Pensions Act, 1950*.

Interpre-
tation.

2. In this Act, unless the contrary intention appears—

“Judge” means a Judge to whom this Act applies;

“salary,” except in section five of this Act, means salary at the rate payable to a Judge immediately prior to his retirement or to his death before retirement, as the case may be;

“the Schedule” means the Schedule to this Act.

3. This Act shall apply to the Chief Justice of Western Australia and all other Judges of the Supreme Court of Western Australia appointed or to be appointed under section seven of the Supreme Court Act, 1935-1949. Judges to whom Act applies.

4. The Acts specified in the first column of the Schedule are amended as respectively specified in the second column of the Schedule and as so amended may be cited as respectively specified in the third column of the Schedule. Amendments of Acts.

5. (1) As from and including the first day of September, 1950, the rate of the annual salary payable to the Chief Justice of Western Australia shall be three thousand pounds and the rate of the annual salary payable to each of the Judges of the Supreme Court, other than the Chief Justice, shall be two thousand six hundred pounds. Judges' salaries.

(2) Such salaries are hereby charged on the Consolidated Revenue Fund and such Fund, to the extent required for the payment thereof, is hereby permanently appropriated.

(3) Judges shall be entitled to such travelling and other allowances or reimbursements as the Governor may from time to time approve.

6. (1) Where a Judge who has attained the age of sixty years retires after serving as a Judge for not less than ten years, he shall, on retiring, be entitled to an annual pension at the rate of twenty-seven and one-half per centum of his salary and at the additional rate of two and one-half per centum of his salary for each completed year of his service in excess of ten years, but so that the rate of his pension shall not exceed forty per centum of his salary. Pensions of Judges.

(2) Where a Judge retires and the Minister certifies that his retirement is by reason of permanent disability or infirmity—

- (a) if his retirement occurs during the first five years of his service as a Judge, he shall be entitled, on retiring, to an annual pension at the rate of fifteen per centum of his salary; or
- (b) if his retirement occurs after he has served as a Judge for not less than five years, he shall be entitled, on retiring, to an annual pension at the rate of fifteen per centum of his salary and at an additional rate of two and one-half per centum of his salary for each completed year of his service in excess of five years, but so that the rate of his pension shall not exceed forty per centum of his salary.

Pension to widow on death of Judge before retirement.

7. Where a Judge dies before his retirement—

- (a) if his death occurs during the first five years of his service as a Judge, an annual pension shall be paid to his widow at the rate of seven and one-half per centum of his salary; or
- (b) if his death occurs after he has served as a Judge for not less than five years, an annual pension shall be paid to his widow at the rate specified in the last preceding paragraph of this section and at an additional rate, for each completed year of his service in excess of five years, of one and one-quarter per centum of his salary, but so that the rate of her pension shall not exceed twenty per centum of that salary:

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

Pension to widow on death of retired Judge.

8. Upon the death of a retired Judge who is in receipt of a pension under section six of this Act, an annual pension shall be paid to his widow, if her marriage to the retired Judge occurred prior to his retirement, at the rate of one-half of the rate of pension payable to that pensioner immediately prior to his death:

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

9. (1) On the death of a person who is a Judge or was, immediately prior to his death, in receipt of a pension under section six of this Act, an allowance at the rate of one pound per week shall be paid in respect of each of his, or of his widow's children who are under the age of sixteen years and until the age of sixteen years has been attained:

Allowances
in respect of
children of
deceased
Judge.

Provided that, if the widow re-marries, an allowance under this subsection shall not be payable in respect of any child of the re-marriage.

(2) An allowance payable under this section shall be payable—

(a) to the widow of the deceased person during her own life and, in the event of her death before the child attains the age of sixteen years, to the guardian of the child, to be used for the child's support and education; or

(b) in the event of the deceased person having been a widower, to the guardian of the child to be used for the child's support and education.

10. Notwithstanding anything contained in the last three preceding sections, where a retired Judge marries after his retirement and predeceases his wife, a pension shall not be payable to his widow, nor shall allowances in respect of the children of the marriage be payable.

Marriage
after
retirement.

11. The pensions and allowances payable under or by virtue of this Act—

Payment of
pensions and
allowances.

(a) shall grow due from day to day; and

(b) shall be payable monthly out of the Consolidated Revenue Fund which is, to the necessary extent, hereby appropriated accordingly.

12. (1) The provisions of sections six to eleven (inclusive) of this Act shall apply to and in relation to every Judge who is appointed after the commencement of this Act.

Application
of pension,
etc.,
provisions.

(2) The provisions of sections six to eleven (inclusive) of this Act shall not apply to or in relation to any Judge who is serving as a Judge at the date of the commencement of this Act unless, by notice in writing to the Minister within six months after the commencement of this Act, he elects to come within the application of those provisions.

(3) A Judge to and in relation to whom the provisions of sections six to eleven (inclusive) of this Act apply by virtue of an election in pursuance of the last preceding subsection shall, as on and from the date of his election, have the rights and benefits provided by those provisions in substitution for any right to pension to which he would have been entitled under any provision of an Act specified in the first column of the Schedule if the Act so specified had not been amended as provided in this Act.

(4) A Judge who is serving as such at the date of the commencement of this Act and who does not make an election in pursuance of subsection (2) of this section shall retain any right to pension to which he was entitled, immediately prior to the commencement of this Act, under any provision of an Act specified in the first column of the Schedule, and that provision shall continue to apply to and in relation to that Judge as if the Act so specified had not been amended as provided in this Act.

Persons in receipt of pensions at commencement of this Act.

13. (1) Where, immediately prior to the commencement of this Act, a person, having retired from the office of Judge, is in receipt of a pension under any provision of an Act specified in the first column of the Schedule, that person shall, subject to this section, continue to receive that pension as if this Act had not been passed.

(2) The salary, in relation to which the pension of any person to whom the last preceding subsection applies is calculated, shall be deemed to be salary at the rate payable, at the date of the commencement of this Act, to a holder of the office which that person held immediately prior to his retirement.

(3) If a person to whom subsection (1) of this section applies elects, by notice in writing to the Minister within three months after the commencement of this Act, to come within the application of

sections six, eight, nine and ten of this Act, that person shall, as on and from the date of his election, have the rights and benefits provided by those sections in substitution for his right to pension under subsections (1) and (2) of this section.

14. A pension or allowance under this Act shall not, unless the Governor otherwise decides, be payable to a Judge or to the widow and children of a Judge who has been removed under section fifty-five of the Constitution Act, 1889, or section nine of the Supreme Court Act, 1935-1949.

Pensions, etc., not payable on removal of Judge.

15. If any person who may be entitled to or be in receipt of a pension by virtue of this Act, or of the Supreme Court Act, 1935-1949, shall practise as a barrister, solicitor or proctor in Western Australia, or in any other part of His Majesty's Dominions, his right to such pension shall be forfeited and the pension, if already granted, shall cease to be payable.

Pensions not payable if Judge practises as a barrister, etc.

THE SCHEDULE.

First Column	Second Column	Third Column
Acts Amendment (Increase in number of Judges of the Supreme Court) Act, 1949.	Delete from section one the words "a day to be fixed by proclamation after the King's approval thereto has been proclaimed in the State," and substitute the words "the twenty-fourth day of September, 1949."	Acts Amendment (Increase in number of Judges of the Supreme Court) Act, 1949-1950.
Constitution Act, 1889.	Section fifty-six is repealed.	Constitution Act, 1889-1950.
Constitution Acts Amendment Act, 1899-1950.	(a) Delete from the Fourth Schedule the words and figures following:— Chief Justice 2,600 First Puisne Judge 2,300 Second Puisne Judge 2,300 Third Puisne Judge 2,300 Fourth Puisne Judge 2,300 (b) Substitute for the figures "29,400" in line fourteen of the Fourth Schedule the figures "17,600."	Constitution Acts Amendment Act, 1899-1950.
Supreme Court Act, 1935-1949.	Sections thirteen and fourteen are repealed.	Supreme Court Act, 1935-1950.
Judges' Retirement Act, 1937.	Section four is repealed.	Judges' Retirement Act, 1937-1950.