

WESTERN AUSTRALIA.

JUDGES' SALARIES AND PENSIONS.

14° and 15° Geo. VI., No. XXXV.

No. 35 of 1950.

[As amended by Acts:

No. 70 of 1953, assented to 9th January, 1954;

No. 57 of 1955, assented to 9th December, 1955;

No. 13 of 1959, assented to 25th September, 1959;

No. 2 of 1960, assented to 6th October, 1960;

No. 45 of 1961, assented to 23rd November, 1961;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

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:—

1. This Act may be cited as the *Judges' Salaries and Pensions Act, 1950-1961*.

Short title.
Amended by
No. 45 of
1961, s. 1.

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

Interpre-
tation.

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

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“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.

Judges to whom Act applies. Amended by No. 2 of 1960, s. 2.

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, 1935.¹

Amendments of Acts.

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.

Judges' salaries. Amended by No. 70 of 1953, s. 2. No. 57 of 1955, s. 2. No. 13 of 1959, s. 2.

5. (1) As from and including the first day of January, one thousand nine hundred and fifty-nine, the rate of the annual salary payable to the Chief Justice of Western Australia shall be five thousand two hundred and fifty 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 four thousand seven hundred and fifty pounds in the case of the senior of those Judges, whose office shall be known as that of Senior Puisne Judge; and four thousand six hundred pounds in the case of each of the others of those Judges.

Cf. No. 36 of 1935, s. 7 (3) as to seniority.

(1a) (a) In this subsection—

“salary rate” means the salary rate per annum of five thousand two hundred and fifty pounds, four thousand seven hundred and fifty pounds or four thousand six hundred pounds as the case may be;

¹ Now Supreme Court Act, 1935-1960.

“variations” means variations in the amount of the basic wage as determined from time to time on or after the first day of January, one thousand nine hundred and fifty-nine under section one hundred and twenty-seven of the Industrial Arbitration Act, 1912.¹

Cf. No. 57 of 1912 as amended ss. 127 and 164.

(b) The Governor shall cause adjustments to be made to the salary rate by multiples of twenty pounds as and when the variations are to an extent of twenty pounds or a multiple of twenty pounds, but so that the salary rate is not reduced.

(1b) In order that remuneration prescribed by this Act for members of the Judiciary may be adjusted so as to conform relatively to adjustments of remuneration by marginal allowances granted to persons serving the State, the following adjustments, in addition to any other remuneration prescribed by this Act, are hereby granted in respect of the period commencing on the twenty-fourth day of December, one thousand nine hundred and fifty-four and ending on the thirtieth day of November, one thousand nine hundred and fifty-five, in the ratio which the tenure of office of member of the Judiciary during that period, bears to the whole of the period, namely

- (a) Chief Justice, at the rate of five hundred and forty pounds per annum;
- (b) Judges other than the Chief Justice, at the rate of five hundred pounds per annum.

(1c) For the purposes of the provisions of this Act relating to pensions, the salary of any Judge retiring after the twenty-fourth day of December, one thousand nine hundred and fifty-four, and before the first day of December, one thousand nine hundred and fifty-five, shall be deemed to be three thousand four hundred pounds.

(1d) For the purposes of the provisions of this Act relating to pensions, the salary of any judge who retired after the twenty-seventh day of February,

¹ Now Industrial Arbitration Act, 1912-1961.

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one thousand nine hundred and fifty-nine, and before the 30th day of June, one thousand nine hundred and fifty-nine, shall be deemed to be five thousand two hundred and fifty pounds.

(2) Such salaries and adjustments 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.

Pensions
of Judges.
Repealed and
re-enacted by
No. 45 of
1961, s. 2.

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 is entitled to a pension at a rate equal to fifty per centum of his salary.

(2) Where a Judge, not being a Judge to whom subsection (1) of this section applies, retires and the Minister certifies that his retirement is due to permanent disability or infirmity, he is entitled—

(a) if his retirement occurs before he has completed two years' service as a Judge to a pension at a rate equal to fourteen per centum of his salary; or

(b) in any other case, to a pension at a rate equal to fourteen per centum of his salary and at an additional rate equal to four per centum of his salary for each completed year of service other than the first year, but so that the rate of his pension shall not exceed fifty per centum of his salary.

(3) If a person entitled to receive or in receipt of a pension under this Act—

(a) holds any judicial or other office under the Crown, whether in Western Australia or elsewhere, for which he is remunerated out of the moneys of the Crown; or

(b) is in receipt of a pension received by him by reason of having held such office;

then the pension otherwise receivable under this Act by the said person shall be reduced by the amount of the salary remuneration or pension received by the said person as mentioned in paragraphs (a) or (b) of this subsection.

7. (1) Subject to subsection (2) of this section, where a Judge dies before retirement, a pension shall be paid to his widow at a rate equal to seven per centum of his salary and at an additional rate equal to two per centum of his salary for each completed year of his service other than the first year, but so that the rate of pension of the widow shall not exceed twenty-five per centum of that salary.

Pension to widow on death of Judge before retirement. Repealed and re-enacted by No. 45 of 1961, s. 3.

(2) If a widow in receipt of a pension under this section remarries, her pension shall thereupon cease and determine.

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:

Pension to widow on death of retired Judge.

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.

Marriage
after
retirement.

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.

Payment of
pensions and
allowances.

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

- (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.

Application
of pension,
etc.,
provisions.

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.

(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.

12A. (1) For the purposes of the provisions of this Act relating to pensions, any person

(a) who has been appointed an acting Judge under the provisions of section eleven of the Supreme Court Act, 1935;¹
and

(b) who while holding the office under that appointment is appointed a Judge,

shall be deemed to have been appointed a Judge on and from the date of the firstmentioned appointment.

(2) On and from the first day of July, one thousand nine hundred and sixty the provisions of section five of this Act apply to the salary and any adjustment thereto, of a person who before the fourth day of March in that year was so appointed an acting Judge and who while holding that office is appointed a Judge before the thirty-first day of December in that year.

Commencement of service and payment of salary, etc., of acting Judge appointed Judge.
Section 12A added by No. 2 of 1960, s. 3.

¹ Now Supreme Court Act, 1935-1960.

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.

Pensions, etc., not payable on removal of Judge.
Amended by No. 2 of 1960, s. 4.

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, 1889,¹ or section nine of the Supreme Court Act, 1935.²

Pensions not payable if Judge practises as a barrister, etc.
Amended by No. 2 of 1960, s. 5.

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, 1935² 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.

¹ Now Constitution Act, 1889-1950.

² Now Supreme Court Act, 1935-1960.

THE SCHEDULE.

Amended by
No. 57 of
1955, s. 3.

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.	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	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.

