

# JUDGES' SALARIES AND PENSIONS AMENDMENT ACT

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No. 12 of 1989

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AN ACT to amend the *Judges' Salaries and Pensions Act 1950*.

[Assented to 2 November 1989]

The Parliament of Western Australia enacts as follows:

## Short title

1. This Act may be cited as the *Judges' Salaries and Pensions Amendment Act 1989*.

## Commencement

2. (1) Subject to subsection (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 6 shall be deemed to have come into operation on 1 January 1989.

**Principal Act**

3. In this Act the *Judges' Salaries and Pensions Act 1950\** is referred to as the principal Act.

[\*Reprinted as approved 14 November 1978 and amended by Acts Nos. 35 of 1979, 7 of 1982 and 82 of 1987.]

**Section 2 amended**

4. Section 2 of the principal Act is amended in subsection (3) by deleting paragraph (b) and substituting the following paragraph—

“ (b) prior service—

(i) as a judge of a court of the Commonwealth or of another State or a Territory (not being service as a justice of the peace or a magistrate); or

(ii) in an office of the Commonwealth or of another State or a Territory (other than the office of a judge referred to in subparagraph (i)), the holder of which office qualifies for a pension of the same kind as that for which a person serving as such a judge qualifies,

is service as a Judge. ”.

**Section 5 amended**

5. Section 5 of the principal Act is amended in subsections (1) and (3) by deleting “Tribunal”.

**Section 6 amended**

6. Section 6 of the principal Act is amended by repealing subsections (3) and (4) and substituting the following subsections—

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

(a) holds any judicial office under the Crown in right of Western Australia, of the Commonwealth or of another State or a Territory for which he is remunerated out of the moneys of the Crown, then the pension otherwise receivable

under this Act by that person shall be reduced by an amount equal to the amount of the salary remuneration received by that person in respect of that judicial office;

- (b) is in receipt of a pension received by that person by reason of having held the office of a judge within the meaning of section 2 (3) (b) (i) (in this paragraph referred to as "the other judicial pension"), then the pension otherwise receivable under this Act by that person shall be reduced by an amount equal to the amount of the other judicial pension; or
- (c) is in receipt of any pension under the *Superannuation and Family Benefits Act 1938* received by that person by reason of having been a contributor within the meaning of that Act, then the pension otherwise receivable under this Act by that person shall be reduced by an amount equal to the State share of his pension payable in respect of service as an employee within the meaning of that Act.

(4) In subsection (3) (c)—

"State share of his pension" has the meaning given by the definition of that expression in section 80 (4) of the *Superannuation and Family Benefits Act 1938*, references in that definition to a "pensioner" and "the pensioner" being construed as references to the person referred to in subsection (3) (c). "

### Section 13 repealed

7. Section 13 of the principal Act is repealed.

### Section 15 amended

8. Section 15 of the principal Act is amended by—

(a) deleting "If any person" and substituting the following—

" (1) Subject to this section, if any person ";

(b) deleting ", or of the Supreme Court Act, 1935,;" and

(c) inserting after the existing section the following subsections—

“ (2) The Governor may in writing exempt a person who is entitled to or in receipt of a pension by virtue of this Act from the application of subsection (1) in respect of any circumstances, matter or purpose specified in that exemption.

(3) Subsection (1) does not apply to or in relation to a person exempted under subsection (2) in respect of the circumstances, matter or purpose specified in that exemption. ”.

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