

JUDGES' SALARIES AND PENSIONS.

No. 108 of 1975.

AN ACT to amend the Judges' Salaries and Pensions Act, 1950-1975.

[Assented to 1st December, 1975.]

BE it enacted by the Queen'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. (1) This Act may be cited as the *Judges' Salaries and Pensions Act Amendment Act, 1975.*

Short title
and citation.

(2) In this Act the Judges' Salaries and Pensions Act, 1950-1975 is referred to as the principal Act.

Reprinted as
approved
for reprint
30th May
1974 and
amended by
Act No. 23
of 1974 and
Act No. 45
of 1975.

(3) The principal Act as amended by this Act may be cited as the Judges' Salaries and Pensions Act, 1950-1975.

Commence-
ment.

2. This Act shall come into operation on the first day of January, 1976.

Section 2
amended.

3. Section 2 of the principal Act is amended—

(a) by adding immediately before the interpretation "Judge" the following interpretation—

"Index" means the table described as the Consumer Price Index Numbers—All Groups, Perth that is published by the Statistician under the authority of the Census and Statistics Act 1905 (as amended or re-enacted from time to time) of the Commonwealth; ;

(b) by adding after the word "payable" in line two of the interpretation "salary" the passage "(whether under this Act or the Salaries and Allowances Tribunal Act, 1975)"; and

(c) by deleting the interpretation "the Schedule" and substituting the following interpretation—

"Schedule" means Schedule to this Act. .

Section 4
amended.

4. Section 4 of the principal Act is amended by adding before the word "Schedule" occurring in lines two, three and five, the word "First", in each case.

5. Section 5 of the principal Act is amended— Section 5
amended.

(a) by deleting the word “The” in line one of subsection (1) and substituting the passage “Subject to section seven of the Salaries and Allowances Tribunal Act, 1975, the”; and

(b) by adding immediately before the word “Judges” in line one of subsection (3) the passage “Subject to section seven of the Salaries and Allowances Tribunal Act, 1975,”.

6. Section 7 of the principal Act is repealed and the following section substituted— Section 7
repealed
and
substituted.

7. (1) The pensions and allowances payable under this Act to the widows and children of Judges and retired Judges and the rates of those pensions and allowances shall, on and from the month of January in the year nineteen hundred and seventy-six, be those respectively set out in the Second Schedule to this Act. Derivative

(2) A person is eligible to receive a pension or allowance under the Second Schedule to this Act whether the circumstances or events which gave rise to the eligibility occurred before, on, or after the date on which the Second Schedule to this Act comes into operation.

7. Section 8 of the principal Act is repealed. Section 8
repealed.

8. Section 8A of the principal Act is amended— Section 8A
amended.

(a) by deleting the words “to whom section seven or section eight of this Act applies” in lines one and two; and

(b) by deleting paragraph (a) and substituting the following paragraph—

(a) a widow's pension under this Act; .

Section 8B
repealed
and
re-enacted.

9. Section 8B of the principal Act is repealed and re-enacted as follows—

Annual
adjustment
of pensions.

8B. (1) Subject to this section, every pension payable under this Act shall be increased in each year, commencing with the year nineteen hundred and seventy-six, with effect on and from the first day of January in that year by such percentage as is determined by the Treasurer to be the percentage by which the Index for the quarter ending on the immediately preceding thirty-first day of December is greater than the Index for the quarter ending on the penultimate preceding thirty-first day of December.

(2) The following provisions apply to and in relation to the first increase of a pension pursuant to this section if, on the first day of January in the year in which the increase is to be made, or would, but for paragraph (a) of this subsection, be made the pension has been in force for less than twelve months, namely—

- (a) in the case of a pension which first becomes payable after the first day of October in any year, the first increase of that pension shall be made so as to operate from the first day of January in the second year after the year in which the pension first became payable; and
- (b) in the case of a pension which first becomes payable on or before the first day of October in any year, the first increase in that pension shall be made so as to operate from the first day in January in the year next after the year in which the pension first becomes payable, and the annual amount by which the pension is to be increased shall be calculated in accordance with the prescribed formula.

(3) For the purposes of paragraph (b) of subsection (2) of this section, the prescribed formula is the formula—

$$P=A \times \frac{Q}{4}$$

where—

- P represents the annual amount referred to in that paragraph;
- A represents the amount by which, but for the operation of that subsection, the pension would have been increased; and
- Q represents the number of whole quarters (ending on the thirtieth day of June, the thirtieth day of September and the thirty-first day of December) within the period commencing on the day on which the pension became payable and ending on the following thirty-first day of December, for which the pension was payable.

(4) Where, for the purposes of determining the increase to be made in pensions for any year, the Treasurer determines that the Index for a quarter ending on the immediately preceding thirty-first day of December is less than the Index for the quarter ending on the penultimate preceding thirty-first day of December, no increase shall be made in pensions for that year, and the percentage by which the firstmentioned Index is less than the secondmentioned Index shall first be taken into account before any subsequent adjustments of pensions are made pursuant to this section.

(5) The provisions of this section apply with such modifications as are necessary to pensions payable to the widows of Judges or former Judges. .

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Sections 9
and 10
repealed.

10. Sections 9 and 10 of the principal Act are repealed.

Schedule
amended.

11. The Schedule to the principal Act is amended by deleting the heading thereto and substituting the heading "THE FIRST SCHEDULE".

Second
Schedule
added.

12. The principal Act is amended by adding at the end thereof a Schedule as follows—

SECOND SCHEDULE

PART I

REVERSIONARY PENSIONS

Item No.	Column 1	Column 2	Column 3	Column 4	Column 5
	Eligible Person	Rate of Pension or Benefit	Commencement of Pension	Termination of Pension	When Pension Restored
1.	Widow of former Judge who died after his retirement, if their marriage took place prior to retirement.	$\frac{5}{8}$ of pension which former Judge was receiving at date of death.	As from day after former Judge's death.	(a) On re-marriage prior to attaining age of 55 years (including any such re-marriage after pension has been restored after cessation of previous re-marriage). (b) On death of widow.	(a) During any period after re-marriage when widow is not a party to a subsisting marriage. (b) During any period of re-marriage if widow satisfies Treasurer that loss of pension causes severe hardship.
2.	Widow of former Judge who died after his retirement, if their marriage took place after retirement, and if widow has not re-married.	As in item 1.	(a) As from day after former Judge's death if widow then aged 55 or more. (b) As from date widow attains age of 55 if she is less than 55 at date of former Judge's death.	On death of widow or on her re-marriage.	
3.	Widow of Judge who died prior to his retirement.	$\frac{5}{8}$ of pension to which Judge would have been entitled if he had not died but had, on the date on which he died, retired on the grounds of permanent disability.	As in item 1.	As in item 1.	As in item 1.

PART II.

CHILDREN'S ALLOWANCES.

Eligibility and Rate of Benefit, etc.

Item 1:

- (1) Subject to the following, upon the death of a Judge or of a former Judge who was in receipt of pension under this Act, an allowance of \$8.00 per week is payable in respect of each of his children who was at that time wholly or substantially dependent upon the Judge or former Judge.
- (2) Allowance is payable under this item only during any period when the child—
 - (a) is wholly or substantially dependent upon the surviving parent or other person having the care of the child; and
 - (b) is under the age of 16 years or is a student child under the age of 25 years.

Item 2:

- (1) Subject to the following, an allowance at the rate fixed by sub-item (2) is payable in respect of the child of a Judge or of a former Judge who was in receipt of pension under this Act, where—
 - (a) the Judge or former Judge had died and was at the date of his death a widower or divorced and not remarried, in which case the allowance is payable as from the day after the death of the Judge or former Judge; or
 - (b) the Judge or former Judge had died and was survived by a widow who has since died, in which case the allowance is payable from the day after the death of that widow.
- (2) The rate per week at which allowance is payable under this item is the greater of the following rates—
 - (a) \$10.00; or
 - (b) \$4.00 plus the amount calculated in accordance with the formula $\frac{R}{N}$, where—
 - R
 - N

R is the rate of reversionary pension that was payable (or would if the widow were eligible, have been payable) to the surviving widow at the date of her death (or the rate of reversionary pension that would have been so payable if the spouse of the Judge or former Judge had survived the Judge or former Judge); and

N is 4 or the number of children of the Judge to whom allowance is payable under this item, whichever is the greater.

- (3) Allowance is payable under this item only during any period when the child is under the age of 16 years or is a student child under the age of 25 years.
- (4) Allowance is not payable under this item in respect of a child who was not, at the date of the death of the Judge, wholly, or substantially dependent upon him or her.

PART III.

GENERAL PROVISIONS.

Item 1:

Where a person is entitled under the foregoing provisions of this Schedule to receive more than one pension or child's allowance, or both such a pension and allowance, only the greatest of them shall be paid to that person.

Item 2:

Any child's allowance payable under the provisions of Part II of this Schedule may be paid to the parent or other person or body having the care or support of the child, or directly to the child, as the Treasurer may determine.
