

Queensland



**JUDGES (PENSIONS AND
LONG LEAVE)
AMENDMENT ACT 1992**

Act No. 14 of 1992

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*An Act to amend the *Judges (Pensions and Long Leave) Act 1957**

[Assented to 13 May 1992]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

Short title

1. This Act may be cited as the *Judges (Pensions and Long Leave) Amendment Act 1992*.

Amended Act

2. The *Judges (Pensions and Long Leave) Act 1957* is amended as set out in this Act.

Amendment of s.2 (Definitions)

3. Section 2—

insert—

‘**“notional pension”**, in relation to a Judge who has died, means—

- (a) if the Judge died before retirement—the pension to which the Judge would be entitled under section 5 if the Judge had not died but had retired, because of permanent disability or infirmity, on the day of death; or
- (b) if the Judge died after retirement—the pension to which the Judge would be entitled under this Act if the Judge had not died;’.

Replacement of s.8A (Pension in respect of children of deceased Judge)

4. Section 8A—

omit, insert—

‘Pension for children of deceased Judge

‘**8A.(1)** In this section—

“**child**” includes adopted child;

“**eligible child**” of a Judge means—

- (a) a child of the Judge; or
- (b) a child who became a child of the Judge's spouse before—
 - (i) if the Judge died before retirement—the Judge died; or
 - (ii) if the Judge died after retirement—the Judge retired;

who is under 16 or, if the child is receiving full-time education at a school, college or university, is under 25;

“spouse” of a Judge who has died (whether before or after retirement) means the person (if any) who was the Judge's spouse—

- (a) if the Judge died before retirement—on the day that the Judge died; or
- (b) if the Judge died after retirement—both on the day that the Judge retired and on the day that the Judge died.

‘(2) If—

- (a) a Judge dies before retirement; or
- (b) a retired Judge who is entitled to receive a pension under this Act dies;

pension is payable for each eligible child of the Judge for use towards the child's support and education.

‘(3) The rate of pension payable for an eligible child is the following percentage of the Judge's notional pension—

- (a) if a spouse of the Judge is entitled to a pension under this Act and—
 - (i) there are less than 5 eligible children—12.5%;
 - (ii) there are 5 or more eligible children—50% divided by the number of eligible children;
- (b) in any other case—
 - (i) if there is 1 eligible child—45%;
 - (ii) if there are 2 eligible children—40%;
 - (iii) if there are 3 eligible children—30%;
 - (iv) if there are 4 or more eligible children—100% divided by the number of eligible children.

‘(4) Pension payable under this section for an eligible child is payable to—

- (a) if the child is a minor—
 - (i) the parent or guardian of the child; or
 - (ii) such other person as the Minister directs; or
- (b) in any other case—the child.’.

SCHEDULE**MINOR AMENDMENTS**

section 2

Title—*omit, insert—***‘An Act to make provision for pensions and long leave for Judges, and pensions for the families of Judges’.****Section 3—***omit, insert —***‘Pension of Judge retiring at 70**

‘3.(1) If a Judge retires on reaching 70 after serving as a Judge for not less than 5 years, the Judge is, subject to subsection (2), entitled to a pension at a rate equal to 6% of the Judge’s salary for each completed year of service as a Judge.

‘(2) The maximum pension to which the Judge is entitled is the following percentage of the Judge’s salary—

- (a) if the Judge retired before the enactment of the *Judges’ Pensions Act Amendment Act 1984*—50%; or
- (b) in any other case—60%.’.

Section 4 (after ‘because’)—*insert ‘of’.*

Section 4—

omit ‘he’, *insert* ‘the Judge’.

Section 4—

omit ‘his’ (wherever occurring), *insert* ‘the Judge’s’.

Section 5—

omit ‘he’(wherever occurring), *insert* ‘the Judge’.

Section 5—

omit ‘his’ (wherever occurring), *insert* ‘the Judge’s’.

Section 5—

omit ‘the Director-General of Health and Medical Services for the State of Queensland’,

insert ‘a prescribed medical practitioner’.

Section 5—

omit ‘Treasurer’, *insert* ‘Minister’.

Section 7 (heading)—

omit ‘widow’, *insert* ‘spouse on death of Judge’.

Section 7—

omit ‘his retirement his widow shall be entitled until her re-marriage’,

insert ‘retirement, the Judge’s spouse is entitled until re-marriage’.

Section 7(a) and (b)—

omit ‘his’ (wherever occurring), *insert* ‘his or her’.

Section 7(b)—

omit ‘he’, *insert* ‘the Judge’.

Section 8—

omit, insert —

‘Pension of spouse on death of retired Judge

‘**8.(1)** If a retired Judge dies leaving a spouse whose marriage to the Judge happened before the retirement, the spouse is entitled to pension at a rate equal to 50% of the Judge’s notional pension.

‘**(2)** The pension ceases if the spouse remarries.’.

Sections 8B, 9 and 10—

omit.

Section 15(1)—

omit, insert—

‘**(1)** A Judge who has served as a Judge for not less than 7 years is entitled to the following additional leave of absence on full pay—

- (a) for the first 7 years service as a Judge—6 months;
- (b) for each subsequent completed year of service—six-sevenths of a month.

‘**(2)** The Governor in Council must, on application made by a Judge who is entitled under subsection (1) to leave of absence of not less than 6 months, grant the leave of absence.

‘**(3)** A Judge must, within 3 years after completing any 7 years of service as a Judge, take the leave of absence to which the Judge is entitled in relation to the period of 7 years unless the Governor in Council otherwise approves.

‘(4) If the Judge does not take the leave within that period of 3 years or within any further period allowed by the Governor in Council, the Judge forfeits all rights in relation to the leave of absence.

‘(5) A Judge who is entitled to not less than 6 months of additional leave of absence under subsection (1) may, with the approval of the Governor in Council, take the period of additional leave in 2 separate periods of not less than 3 months.’.

Section 15(2) (as in force before the enactment of this Act)—

omit ‘If circumstances render it inconvenient for a Judge’,

insert ‘If a Judge is unable, or circumstances render it inconvenient for a Judge,’.

Section 15(2) and (3) (as in force before the enactment of this Act)—

renumber as section 15(6) and (7).

After section 15—

insert—

‘Act not to apply if Judge removed from office

‘16. Unless the Governor in Council otherwise determines, this Act does not apply to a Judge who is removed from office under section 16 of the *Constitution Act 1867* and section 9 of the *Supreme Court Act 1867*, or section 13 of the *District Courts Act 1967*, for any reason other than that the Judge is incapacitated from performing the duties of office because of permanent disability or infirmity.

‘Payment of pensions etc.

‘17.(1) Pensions under this Act accrue daily and are payable monthly or at such lesser intervals as the Minister directs.

‘(2) Pensions under this Act, and other amounts payable under this Act, are payable out of the Consolidated Fund, which is appropriated accordingly.

‘Retired Judge serving in judicial office

‘18. If, after retirement, a Judge who is entitled to pension under this Act serves for a period in a judicial office of the Commonwealth or a State or Territory and receives salary for the service, then—

- (a) if the salary is equal to or more than the amount of pension that would, but for this section, be payable for the period—pension is not payable for the period; or
- (b) in any other case—the amount of that pension is reduced by the amount of the salary.’.

Section 16 (as in force before the enactment of this Act)—

renumber as section 19.

Section 17 (as in force before the enactment of this Act)—

omit, insert—

‘Regulations

‘20. The Governor in Council may make regulations for the purposes of this Act.’.