

Queensland



JUDICIAL LEGISLATION AMENDMENT BILL 1994

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**JUDICIAL LEGISLATION AMENDMENT
BILL 1994**

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1994

A BILL

FOR

An Act to amend the *Industrial Relations Act 1990*, the *Judges (Pensions and Long Leave) Act 1957*, the *Judges (Salaries and Allowances) Act 1967*, the *Land Act 1962* and the *Supreme Court of Queensland Act 1991*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

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Clause **1.** This Act may be cited as the *Judicial Legislation Amendment Act 1994*.

4

5

Commencement

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Clause **2.** Sections 6 and 7 are taken to have commenced immediately after the commencement of the *Supreme Court of Queensland Act 1991*.

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PART 2—AMENDMENT OF INDUSTRIAL RELATIONS ACT 1990

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Amended Act

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Clause **3.** This Part amends the *Industrial Relations Act 1990*.

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Replacement of s 27 (Remuneration of Commissioners)

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Clause **4.** Section 27—

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omit, insert—

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‘Remuneration of Commissioners

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‘27.(1) The rate of salary, and the allowances and rates of allowances, payable to the Chief Industrial Commissioner and other Industrial Commissioners are to be fixed by determinations of the Salaries and Allowances Tribunal under the *Judges (Salaries and Allowances) Act 1967*.

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‘(2) The salaries and allowances are payable out of the Consolidated Fund, which is appropriated accordingly.’.

PART 3—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957

Amended Act

Clause 5. This Part amends the *Judges (Pensions and Long Leave) Act 1957*.

Amendment of s 2 (Definitions)

Clause 6. Section 2, definition “salary”—

omit, insert—

‘“salary”—

- (a) for a Judge who dies or retires after the commencement of the *Judges’ Pensions Act Amendment Act 1984*—means the annual rate of salary and allowances, including any general allowance and jurisprudential allowance, that would be payable to the Judge or to which the Judge could have become entitled, if the Judge had not died or retired; and
- (b) for a Judge who died or retired before the commencement of the *Judges’ Pensions Act Amendment Act 1984*—has the meaning given in section 2B.’.

Insertion of new s 2B

Clause 7. After section 2A—

insert—

‘Salary of Judges who died or retired before 1984 Amendment Act

‘2B.(1) This section applies in relation to a Judge (a “pre-1984 Judge”) who died or retired before the commencement of the *Judges’ Pensions Act Amendment Act 1984*.

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- ‘(2) For the purposes of this Act, the salary of a pre-1984 Judge is the annual rate of salary that would be payable to the Judge if the Judge had not died or retired and the Judge’s annual rate of salary were—
- (a) before 1 July 1992—the Judge’s 1991 notional salary amount; and
 - (b) on and after 1 July 1992—the product of—
 - (i) the Judge’s 1991 notional salary amount; and
 - (ii) the Judge’s notional salary increase factor.
- ‘(3) The Judge’s notional salary increase factor is the number worked out, to 2 decimal places, using the following formula—
- $$\frac{\text{latest notional salary package amount}}{\text{1992 notional salary package amount}}$$
- ‘(4) In this section—
- “**1991 notional salary amount**”, for a Judge, means the annual rate of salary that would have been necessary to be payable to the Judge (if the Judge had not died or retired) to entitle the Judge or the Judge’s widow to continue to receive, or receive, pension at the same annual rate after the commencement of this section, and up to 30 June 1992, as would have been payable if the *Supreme Court of Queensland Act 1991* had not been enacted and amended this Act.
- “**1992 notional salary package amount**”, for a Judge, means the Judge’s notional salary package amount that applied immediately before 1 July 1992.
- “**applicable determination**”, for a Judge, means a determination made by the Tribunal, other than a determination disallowed by the Legislative Assembly.
- “**determination**” means a determination made under the *Judges (Salaries and Allowances) Act 1967*.
- “**latest notional salary package amount**”, for a Judge, means the Judge’s notional salary package amount under the latest applicable determination.
- “**notional salary package amount**”, for a Judge, means the total of the annual rate of salary and allowances, including any general allowance

and jurisprudential allowance, that would be payable to the Judge or to which the Judge could have become entitled, if the Judge had not died or retired.

“**Tribunal**” means the Salaries and Allowances Tribunal.’.

Replacement of s 16 (Act not to apply if Judge removed from office)

Clause **8.** Section 16—

omit, insert—

‘What happens if Judge removed from office

‘**16.(1)** If a Judge is removed from office under an Act, this Act applies only if the reason for the Judge’s removal is that the Judge is unable to perform the duties of the office because of a permanent disability or infirmity.

‘**(2)** However, the Governor in Council may decide that this Act applies to the Judge despite subsection (1).’.

PART 4—AMENDMENT OF JUDGES (SALARIES AND ALLOWANCES) ACT 1967

Amended Act

Clause **9.** This Part amends the *Judges (Salaries and Allowances) Act 1967*.

Replacement of s 3 (Salary and allowances of District Court Judges)

Clause **10.** Section 3—

omit, insert—

‘Salary and allowances of District Court Judges

‘**3.(1)** The rate of salary, and the allowances and rates of allowances, payable to the Chief Judge, and a Senior Judge, of District Courts and other District Court Judges are to be fixed by determinations of the Tribunal.

Judicial Legislation Amendment

‘(2) However, the total of the annual rates of salary and allowances payable to a District Court Judge must not be reduced by a determination. 1
2

‘(3) The salaries and allowances are payable out of the Consolidated Fund, which is appropriated accordingly.’. 3
4

Insertion of new Pts 3A and 3B 5

Clause **11.** After Part 3— 6

insert— 7

‘PART 3A—SALARIES AND ALLOWANCES OF INDUSTRIAL COMMISSIONERS 8
9

‘Salary and allowances of Industrial Commissioners 10

‘**3A.(1)** The rate of salary, and the allowances and rates of allowances, payable to the Chief Industrial Commissioner and the other Industrial Commissioners are to be fixed by determinations of the Tribunal. 11
12
13

‘(2) However, the total of the annual rates of salary and allowances payable to an Industrial Commissioner must not be reduced by a determination. 14
15
16

‘(3) Until the Tribunal’s first determination about the Industrial Commissioners, an Industrial Commissioner must be paid the salary and allowances payable to the Commissioner immediately before the commencement of this section. 17
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19
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‘(4) Subsection (3) and this subsection expire 6 months after the commencement of this section or, if another day (within 1 year after the commencement) is fixed by regulation, on that day. 21
22
23

**‘PART 3B—SALARIES AND ALLOWANCES OF
LAND COURT MEMBERS**

‘Salary and allowances of Land Court members

‘3B.(1) The rate of salary, and the allowances and rates of allowances, payable to the President and the other members of the Land Court are to be fixed by determinations of the Tribunal.

‘(2) However, the total of the annual rates of salary and allowances payable to a member of the Land Court must not be reduced by a determination.

‘(3) Until the Tribunal’s first determination about the members of the Land Court, a member of the Land Court must be paid the salary and allowances payable to the member immediately before the commencement of this section.

‘(4) Subsection (3) and this subsection expire 6 months after the commencement of this section or, if another day (within 1 year after the commencement) is fixed by regulation, on that day.’.

Replacement of s 4 (Salaries of Magistrates etc.)

Clause **12.** Section 4—
omit, insert—

‘Salary of Magistrates etc.

‘4.(1) The rates of salary payable to the Chief Stipendiary Magistrate, the Senior Stipendiary Magistrate and other Stipendiary Magistrates are to be fixed by determinations of the Tribunal.

‘(2) However, the annual rate of salary payable to a Magistrate must not be reduced by a determination.

‘(3) The salaries are payable out of the Consolidated Fund, which is appropriated accordingly.’.

	Amendment of s 5 (Establishment of Tribunal)	1
Clause	13. Section 5(3)—	2
	<i>omit, insert—</i>	3
	‘(3) A person must not be appointed or hold office as a member of the Tribunal if the person holds any of the following offices—	4
		5
	(a) a Judge of the Supreme Court;	6
	(b) a Judge of the District Courts;	7
	(c) a member of the Land Court;	8
	(d) an Industrial Commissioner;	9
	(e) a Magistrate.’.	10
	Amendment of s 12 (Inquiry and report on judicial salaries and allowances)	11
		12
Clause	14.(1) Section 12(1)(c)—	13
	<i>renumber</i> as section 12(1)(e).	14
	(2) Section 12(1)—	15
	<i>insert—</i>	16
	‘(c) the rates of salary, and the allowances and rates of allowances, respectively payable to the Chief Industrial Commissioner and other Industrial Commissioners; and	17
		18
	‘(d) the rates of salary, and the allowances and rates of allowances, respectively payable to the President and other members of the Land Court.’.	19
		20
		21
		22
	(3) Section 12(2)(c)—	23
	<i>omit, insert—</i>	24
	‘(c) given to the relevant Minister.’.	25
	(4) Section 12—	26
	<i>insert—</i>	27
	(8) In this section—	28

Judicial Legislation Amendment

- “relevant Minister”** means, for a report about salaries and allowances of— 1
- (a) Supreme Court Judges, District Court Judges or 2
Magistrates—the Minister; or 3
 - (b) Industrial Commissioners—the Minister administering the 4
Industrial Relations Act 1990; or 5
 - (c) members of the Land Court—the Minister administering the 6
Land Act 1962.’. 7

Amendment of s 13 (Method of inquiry by Tribunal) 8

Clause **15.(1)** Section 13(2)— 9
omit, insert— 10

‘(2) The Tribunal may decide that changes should be made to the salary 11
and allowances of a Judge, Industrial Commissioner or member of the 12
Land Court, or the salary of a Magistrate, only if it considers the changes 13
are equitable having regard to— 14

- (a) for a Judge— 15
 - (i) the salary and allowances payable to Judges of the 16
Commonwealth, the other States and Territories; and 17
 - (ii) other matters the Tribunal considers relevant to the 18
responsibilities and conditions of service of the Judge; or 19
- (b) for an Industrial Commissioner— 20
 - (i) the salary and allowances payable to equivalent or similar 21
office holders of the Commonwealth, the other States and 22
the Territories; and 23
 - (ii) other matters the Tribunal considers relevant to the 24
responsibilities and conditions of service of the Industrial 25
Commissioner; or 26
- (c) for a member of the Land Court— 27
 - (i) the salary and allowances payable to equivalent or similar 28
office holders of the Commonwealth, the other States and 29
the Territories; and 30
 - (ii) other matters the Tribunal considers relevant to the 31

- responsibilities and conditions of service of the member; or 1
- (d) for a Magistrate— 2
- (i) the salary and allowances payable to Magistrates of the 3
Commonwealth, the other States and Territories; and 4
- (ii) other matters the Tribunal considers relevant to the 5
responsibilities and conditions of service of the Magistrate.’. 6

Replacement of s 16 (Regulations) 7

- Clause 16. Section 16— 8
- omit, insert— 9*
- ‘Regulation making power 10**
- ‘16. The Governor in Council may make regulations under this Act.’. 11

PART 5—AMENDMENT OF LAND ACT 1962 12

Amended Act 13

- Clause 17. This Part amends the *Land Act 1962*. 14

Replacement of s 31 (Salaries of members) 15

- Clause 18. Section 31— 16
- omit, insert— 17*

‘Remuneration of members 18

‘31.(1) The rate of salary, and the allowances and rates of allowances, 19
payable to the President and other members of the Land Court are to be 20
fixed by determinations of the Salaries and Allowances Tribunal under the 21
Judges (Salaries and Allowances) Act 1967. 22

‘(2) The salaries and allowances are payable out of the Consolidated 23
Fund, which is appropriated accordingly.’. 24

Judicial Legislation Amendment

	Replacement of s 31A (Leave of absence to members)	1
Clause	19.(1) Section 31A—	2
	<i>omit, insert—</i>	3
	‘Leave of absence to members	4
	‘31A. Section 15 of the <i>Judges (Pensions and Long Leave) Act 1957</i>	5
	applies to a member of the Land Court as if—	6
	(a) a reference to a Judge included a reference to a member of the	7
	Land Court; and	8
	(b) all other necessary changes were made.’.	9
	Omission of s 31B (Election as to leave of absence)	10
Clause	20. Section 31B—	11
	<i>omit.</i>	12
	Amendment of s 31C (Pension benefits to members)	13
Clause	21. Section 31C(1)—	14
	<i>omit, insert—</i>	15
	‘31C.(1) The <i>Judges (Pensions and Long Leave) Act 1957</i> , other than	16
	sections 2A and 15, applies to a member of the Land Court and the	17
	member’s spouse or child as if—	18
	(a) a reference to a Judge included a reference to a member of the	19
	Land Court; and	20
	(b) all other necessary changes were made.’.	21

**PART 6—AMENDMENT OF SUPREME COURT OF
QUEENSLAND ACT 1991**

	Amended Act	3
Clause	22. This Part amends the <i>Supreme Court of Queensland Act 1991</i> .	4
	Amendment of s 102 (Judicial entitlements of first Judges of Appeal)	5
Clause	23.(1) Section 102(2), ‘Part 6 of’—	6
	<i>omit.</i>	7
	(2) Section 102(4) to (6)—	8
	<i>renumber</i> as section 102(5) to (7).	9
	(3) Section 102—	10
	<i>insert</i> —	11
	‘ (4) However, subsection (3) does not prevent the making of a determination by the Tribunal amalgamating the salary, general allowance and jurisprudential allowance of a Judge of Appeal if—	12
	(a) the Tribunal also makes a determination amalgamating the salary, general allowance and jurisprudential allowance of the other Judges of the Court; and	15
	(b) the amalgamation for the Judge of Appeal is to the same proportional extent as the amalgamation for the other Judges of the Court.’.	16
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		19
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	Replacement of s 109 (Regulations)	21
Clause	24. Section 109—	22
	<i>omit, insert</i> —	23
	‘Regulation making power	24
	‘109. The Governor in Council may make regulations under this Act.’.	25
		26

Judicial Legislation Amendment
