

Queensland



JUDGES (PENSIONS AND LONG LEAVE) ACT 1957

**Reprinted as in force on 1 December 1992
(includes amendments up to Act No. 14 of 1992)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 1 December 1992. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- omit the enacting words [words of notification] as permitted by section 7(1)(a) of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- correct minor errors as permitted by section 44 of that Act;

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



JUDGES (PENSIONS AND LONG LEAVE) ACT 1957

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JUDGES (PENSIONS AND LONG LEAVE) ACT 1957

[as amended by all amendments that commenced before 1 December 1992²]

An Act to make provision for pensions and long leave for Judges, and pensions for the families of Judges

Short title

1. This Act may be cited as the *Judges (Pensions and Long Leave) Act 1957*³⁻⁴.

Definitions

2. In this Act—

“Judge” means—

- (a) a Supreme Court Judge; or
- (b) a District Court Judge;

“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;

“salary”, in relation to a Judge who has died or retired, means the annual rate of salary that would be payable to the Judge if the Judge had not died or retired, and includes, except in the case of a Judge who died or retired before the enactment of the *Judges Pensions Act Amendment*

Act 1984, the rate of any annual allowance payable to the Judge immediately before the death or retirement.

Length of service

2A. For the purposes of this Act, in determining the length of service as a Judge, service as an acting Supreme Court Judge or acting District Court Judge is to be counted as service as a Judge.

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%;
- (b) in any other case—60%.

Pension of Judge retiring voluntarily at or after age 60

4. Where a Judge who has attained 60 years of age, but has not attained 70 years of age, retires from office (otherwise than because of permanent disability or infirmity as specified in section 5) after serving as a Judge for not less than 10 years, the Judge shall, on retiring, be entitled to an annual pension at the rate of 60% of the Judge's salary or, in the case of a Judge who has retired before the passing of the *Judges' Pensions Act Amendment Act 1984*, 50% of the Judge's salary.

Pension of Judge retiring on account of ill health

5. Where a Judge retires or is retired from office and a prescribed medical practitioner certifies to the Minister that the Judge's retirement is because of permanent disability or infirmity, the Judge shall, on retirement, be entitled to an annual pension at a rate consisting of—

- (a) 75% of the maximum pension entitlement that the Judge might have had under this Act if the Judge had not retired or been retired because of permanent disability or infirmity; and
- (b) where the Judge has served as a Judge for a period in excess of 5 years—an additional 5% of the maximum pension entitlement referred to in paragraph (a) for each year of the Judge's service as a Judge in excess of 5 years;

but so that the rate of the Judge's pension shall not exceed 60% of the Judge's salary.

Pension of spouse on death of Judge

7. Where a Judge dies before retirement, the Judge's spouse is entitled until remarriage—

- (a) in the case of a Judge whose death occurred before the passing of the *Judges' Pensions Act Amendment Act 1984*—to an annual pension at a rate consisting of 7% of his or her salary and an additional rate of 2% of his or her salary for each complete year of service as a Judge in excess of 1 year but so that the rate of annual pension shall not exceed 25% of his or her salary; or
- (b) in the case of any other Judge—to an annual pension at a rate that is 50% of the rate of annual pension that would have been payable under section 5 to the Judge if the Judge had retired on the date of his or her death because of his or her permanent disability or infirmity.

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 a pension at a rate equal to 50% of the Judge's notional pension.

- (2) The pension ceases if the spouse remarries.

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%; or
 - (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%; or
 - (ii) if there are 2 eligible children—40%; or
 - (iii) if there are 3 eligible children—30%; or
 - (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.

Leave of absence of Judges

15.(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.

(6) If a Judge is unable, or circumstances render it inconvenient for a Judge, to take leave of absence to which the Judge is entitled, the Judge is entitled to receive, either during service as a Judge or on retirement, an amount equal to the Judge's salary for the period of the leave.

(7) If a Judge dies before taking a period of leave of absence to which the Judge is entitled, an amount equal to the Judge's salary for the period of the leave is payable to the executor or administrator of the Judge's estate.

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.

Act subject to Supreme Court of Queensland Act

19. This Act has effect subject to the *Supreme Court of Queensland Act 1991*.

Regulations

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

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2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation before 1 December 1992. Future amendments of the *Judges (Pensions and Long Leave) Act 1957* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

3 List of legislation**Judges' (Pensions and Long Leave) Act 1957 6 Eliz 2 No. 38**

date of assent 17 December 1957

commenced on date of assent

as amended by—

Judges' Salaries and Pensions Act 1967 No. 40 Pt 4

date of assent 14 December 1967

commenced on date of assent

Judges' Pensions Act Amendment Act 1972 No. 11 (repealed by Act 1984 No. 10 s 12)

date of assent 15 December 1972

commenced on date of assent

Judges' Pensions Act Amendment Act 1974 No. 29 (repealed by Act 1984 No. 10 s 12)

date of assent 2 May 1974

for commencement of s 2(1)(a) (see s 2(2))

s 3 commenced 1 July 1974 (see s 3(2))

remaining provisions commenced on date of assent

Judges' Salaries and Pensions Act and Another Act Amendment Act 1980 No. 16 Pt 3

date of assent 12 May 1980

commenced on date of assent

Judges' Pensions Act Amendment Act 1984 No. 10

date of assent 6 February 1984

commenced on date of assent

Judges' Pensions Act Amendment Act 1984 (No. 2) No. 98

date of assent 6 December 1984

commenced on date of assent

Supreme Court of Queensland Act 1991 No. 68 s 111 Sch 2

date of assent 24 October 1991

commenced 14 December 1991 (1991 SL No. 173)

Judges (Pensions and Long Leave) Amendment Act 1992 No. 14

date of assent 13 May 1992

commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Chap	=	Chapter
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
prev	=	previous
pres	=	present

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Long title sub 1992 No. 14 s 2 Sch

Short title

s 1 sub 1991 No. 68 s 111 Sch 2

Definitions

s 2 amd 1967 No. 40 s 9
sub 1991 No. 68 s 111 Sch 2
def "**Judge**" sub 1991 No. 68 s 111 Sch 2
def "**notional pension**" ins 1992 No. 14 s 3
def "**salary**" amd 1984 No. 10 s 2
sub 1991 No. 68 s 111 Sch 2

Length of service

s 2A ins 1991 No. 68 s 111 Sch 2

Pension of Judge retiring at 70

- s 3** sub 1967 No. 40 s 10
 amd 1984 No. 10 s 3
 sub 1984 No. 98 s 2
 amd 1991 No. 68 s 111 Sch 2
 sub 1992 No. 14 s 2 Sch

Pension of Judge retiring voluntarily at or after age 60

- s 4** sub 1967 No. 40 s 11
 amd 1984 No. 10 s 4; 1991 No. 68 s 111 Sch 2; 1992 No. 14 s 2 Sch

Pension of Judge retiring on account of ill-health

- s 5** sub 1967 No. 40 s 12; 1984 No. 10 s 5
 amd 1992 No. 14 s 2 Sch

Pension of Judge retiring on account of ill-health after less than 2 years' service

- s 6** sub 1967 No. 40 s 13
 om 1984 No. 10 s 6

Pension of spouse on death of Judge

- s 7** sub 1967 No. 40 s 14; 1984 No. 10 s 7
 amd 1992 No. 14 s 2 Sch

Pension of spouse on death of retired Judge

- s 8** sub 1984 No. 10 s 8; 1992 No. 14 s 2 Sch

Pension for children of deceased Judge

- s 8A** ins 1967 No. 40 s 15
 sub 1984 No. 10 s 9; 1992 No. 14 s 4

Adjustment of pension entitlement

- s 8B** ins 1972 No. 11 s 2
 amd 1974 No. 29 s 2(1)
 sub 1984 No. 10 s 10
 om 1992 No. 14 s 2 Sch

Adjustment of pensions

- s 8C** ins 1974 No. 29 s 3(1)
 om 1984 No. 10 s 11

Appropriation

- s 9** om 1992 No. 14 s 2 Sch

Pension etc. not payable where Judge removed from office

- s 10** amd 1967 No. 40 s 16
 om 1992 No. 14 s 2 Sch

Repeal of s 4 of 12 Geo. V. No. 14

- s 11** om 1991 No. 68 s 111 Sch 2

Repeal of s 5 of 38 Vic. No. 3

- s 12** om 1991 No. 68 s 111 Sch 2

Amendment of s 6 of 38 Vic. No. 3

- s 13** om 1991 No. 68 s 111 Sch 2

Operation of s 3 of “The Supreme Court Acts Amendment Act of 1944.”

s 14 om 1991 No. 68 s 111 Sch 2

Leave of absence of Judges

s 15 sub 1967 No. 40 s 17

amd 1980 No. 16 s 10; 1991 No. 68 s 111 Sch 2; 1992 No. 14 s 2 Sch

Act not to apply if Judge removed from office

s 16 prev s 16 sub 1991 No. 68 s 111 Sch 2

renum as s 19 1992 No. 14 s 2 Sch

pres s 16 ins 1992 No. 14 s 2 Sch

Payment of pensions etc.

s 17 sub 1992 No. 14 s 2 Sch

Retired Judge serving in judicial office

s 18 ins 1992 No. 14 s 2 Sch

Act subject to Supreme Court of Queensland Act

s 19 (originally s 16) renum 1992 No. 14 s 2 Sch

Regulations

s 20 ins 1992 No. 14 s 2 Sch