



Queensland

# Judges (Pensions and Long Leave) Act 1957

Reprinted as in force on 30 November 2007

Reprint No. 3H

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 30 November 2007. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

# Judges (Pensions and Long Leave) Act 1957

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	3
2	Definitions . . . . .	3
2A	Length of service if previously an acting judge in Queensland . .	3
2AA	Length of service if previously a judge in a court of the Commonwealth or another State . . . . .	3
2B	Salary of judges who died or retired before 1984 Amendment Act . . . . .	4
<b>Part 2</b>	<b>Pensions and other entitlements</b>	
<b>Division 1</b>	<b>General provisions</b>	
2C	Minimum benefit payable . . . . .	5
3	Pension of judge retiring at 70 . . . . .	6
4	Pension of judge retiring voluntarily at or after age 60 . . . . .	6
5	Pension of judge retiring on account of ill health . . . . .	6
7	Pension of spouse on death of judge . . . . .	7
8	Pension of spouse on death of retired judge . . . . .	8
8A	Pension for children of deceased judge . . . . .	9
8B	Election to take part of pension as a lump sum to meet surcharge liability . . . . .	10
8C	Service in other jurisdictions not counted . . . . .	11
<b>Division 2</b>	<b>Provisions for agreements and court orders under Family Law Act</b>	
9	Definitions for div 2 . . . . .	12
10	Providing information . . . . .	12
11	Agreement or court order—minimum benefit . . . . .	13
12	Agreement or court order—pension . . . . .	13
13	Agreement or court order—death of judge in office . . . . .	14

*Judges (Pensions and Long Leave) Act 1957*


---

14	Effect of agreement or court order on particular pensions . . . . .	15
14A	Minister to inform entitled former spouse . . . . .	15
<b>Part 3</b>	<b>Other matters</b>	
15	Leave of absence of judges . . . . .	15
15A	Rate of accrual of entitlement relating to a judge to whom s 2AA applies if rate of accrual different to rate under s 15 . . . . .	17
16	What happens if judge removed from office . . . . .	17
17	Payment of pensions etc. . . . .	17
18	Retired judge serving in judicial office . . . . .	18
18A	Minister is manager for Commonwealth Act. . . . .	19
19	Act subject to Supreme Court of Queensland Act . . . . .	19
20	Regulations . . . . .	19
<b>Part 4</b>	<b>Transitional provisions</b>	
<b>Division 1</b>	<b>Provision for the Statute Law Revision Act (No. 2) 1995</b>	
21	Judges' Pensions Act 1957 references . . . . .	20
<b>Division 2</b>	<b>Provision for the Judicial Remuneration Act 2007, schedule 1</b>	
22	Application of s 18 . . . . .	20
<b>Schedule</b>	<b>Dictionary</b> . . . . .	21
 <b>Endnotes</b>		
1	Index to endnotes . . . . .	23
2	Date to which amendments incorporated . . . . .	23
3	Key . . . . .	23
4	Table of reprints . . . . .	24
5	List of legislation . . . . .	24
6	List of annotations . . . . .	26

# **Judges (Pensions and Long Leave) Act 1957**

[as amended by all amendments that commenced on or before 30 November 2007]

## **An Act to make provision for pensions and long leave for judges, and pensions for the families of judges**

### **Part 1 Preliminary**

#### **1 Short title**

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

#### **2 Definitions**

The dictionary in the schedule defines particular words used in this Act.

#### **2A Length of service if previously an acting judge in Queensland**

For this Act, in deciding 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.

#### **2AA Length of service if previously a judge in a court of the Commonwealth or another State**

- (1) This section applies to a person appointed as a judge after the commencement of this section.
- (2) For this Act, in deciding the length of service as a judge, service as a judge, other than as an acting judge, in another Australian court before the appointment is to be counted as service as a judge.

(3) This section does not limit the application of section 2A.

(4) In this section—

*another Australian court* means a court of the Commonwealth or another State, other than a magistrates court of the Commonwealth or the other State.

## **2B Salary of judges who died or retired before 1984 Amendment Act**

(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*.

(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—

**latest notional salary package amount**  
**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.

## **Part 2                      Pensions and other entitlements**

### **Division 1                General provisions**

#### **2C        Minimum benefit payable**

- (1) Despite any other provision of this Act, a judge who ceases to hold office is entitled to the minimum benefit (if any) decided by an actuary approved by the Minister.
- (2) The minimum benefit must be paid to an approved deposit fund, or a superannuation fund, nominated by the judge.
- (3) To remove doubt, it is declared that this section does not apply to an acting Supreme Court judge or an acting District Court judge.
- (4) In this section—

***minimum benefit*** means the amount of payment, pension or preserved benefit entitlement that is determined to avoid payment of the superannuation guarantee charge.

***superannuation guarantee charge*** means the charge imposed by the *Superannuation Guarantee Charge Act 1992* (Cwlth).

### **3 Pension of judge retiring at 70**

- (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%.

### **4 Pension of judge retiring voluntarily at or after age 60**

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.

### **5 Pension of judge retiring on account of ill health**

- (1) This section applies if—
  - (a) a judge retires from office and a medical practitioner prescribed under a regulation certifies to the Minister that the judge's retirement is because of permanent disability or infirmity; or
  - (b) a judge is removed from office because of proved incapacity.



- (2) The judge is 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 because of permanent disability or infirmity or had not been removed from office because of proved incapacity; 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.

## **7 Pension of spouse on death of judge**

- (1) Where a judge dies before retirement, the judge's spouse is entitled during the spouse's lifetime—
- (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 not died but had retired because of permanent disability or infirmity or had been removed from office because of proved incapacity.
- (2) However—
- (a) if the spouse is a de facto partner, the spouse is entitled to a pension under subsection (1) only if the judge and the spouse had lived together as a couple—
    - (i) for a continuous period of at least 2 years ending on the death; or

- (ii) for a shorter period ending on the death, if the circumstances of the de facto relationship of the judge and the spouse evidenced a clear intention that the relationship be a long term, committed relationship; and
- (b) if the judge died leaving more than 1 spouse—
  - (i) the pensions of all the spouses are limited to the pension (the *total pension*) that would have been payable had the judge died leaving only 1 spouse; and
  - (ii) the total pension must be apportioned between the spouses in the way the Minister considers appropriate.
- (3) Subsection (2)(a) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).<sup>1</sup>

## **8 Pension of spouse on death of retired judge**

- (1) If a retired judge dies leaving a spouse, the spouse is entitled to a pension at a rate equal to 50% of the judge's notional pension.
- (2) However—
  - (a) if the spouse is a husband or wife, the spouse is entitled to a pension under subsection (1) only if his or her marriage to the retired judge happened before the judge's retirement; and
  - (b) if the spouse is a de facto partner, the spouse is entitled to a pension under subsection (1) only if—
    - (i) the spouse was a spouse of the retired judge both when the judge retired and when the judge died; and
    - (ii) the retired judge and the spouse had lived together as a couple—
      - (A) for a continuous period of at least 2 years ending on the death; or

---

<sup>1</sup> *Acts Interpretation Act 1954*, section 32DA (Meaning of de facto partner)

- (B) for a shorter period ending on the death, if the circumstances of the de facto relationship of the judge and the spouse evidenced a clear intention that the relationship be a long term, committed relationship; and
- (c) if the retired judge died leaving more than 1 spouse—
  - (i) the pensions of all the spouses are limited to the pension (the *total pension*) that would have been payable had the judge died leaving only 1 spouse; and
  - (ii) the total pension must be apportioned between the spouses in the way the Minister considers appropriate.
- (3) Subsection (2)(b) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

## **8A Pension for children of deceased judge**

- (1) In this section—
  - child* includes adopted child.
  - eligible child*, of a judge, means—
    - (a) if the judge died before retirement—a person who is under 16 years or, if the person is receiving full-time education at a school, college or university, is under 25 years and who—
      - (i) is a child of the judge; or
      - (ii) when the judge died, was a child of a person who, on the death of the judge, became a person entitled to receive a pension under section 7; or
    - (b) if the judge died after retirement—a person who is under 16 years or, if the person is receiving full-time education at a school, college or university, is under 25 years and who—
      - (i) is a child of the judge; or

*Judges (Pensions and Long Leave) Act 1957*

---

- (ii) when the judge retired, was a child of a person who, on the death of the judge, became a person entitled to receive a pension under section 8.
- (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.

**8B Election to take part of pension as a lump sum to meet surcharge liability**

- (1) This section applies to the following persons—

*Judges (Pensions and Long Leave) Act 1957*

---

- (a) a judge to whom a pension is payable under sections 3 to 5;
  - (b) a judge's spouse to whom a pension is payable under section 7;
  - (c) an eligible child of a judge to whom a pension is payable under section 8A, if the rate of pension is decided under section 8A(3)(b).
- (2) The person may elect to be paid a lump sum instead of a part of the pension.
  - (3) The maximum amount that may be paid as a lump sum under the election is the amount of the judge's surcharge liability.
  - (4) The election must be—
    - (a) made in writing to the Minister; and
    - (b) accompanied by a copy of the surcharge liability notice stating the amount of the judge's surcharge liability.
  - (5) The Minister must act on the election by reducing the pension by the amount of the lump sum.
  - (6) The reduction must happen in the way decided by the Minister on the advice of an actuary.

**8C Service in other jurisdictions not counted**

A person is not entitled to be paid a pension under this Act if—

- (a) the person's length of service as a judge for this Act includes service as a judge in a court of the Commonwealth or another State as mentioned in section 2AA(2); and
- (b) in relation to the service as a judge in a court of the Commonwealth or another State, the person is or will be entitled to be paid a pension under another law.

## Division 2                      Provisions for agreements and court orders under Family Law Act

### 9            Definitions for div 2

In this division—

**agreement** means an agreement mentioned in the definition *entitled former spouse*.

**court order** means a court order mentioned in the definition *entitled former spouse*.

**entitled former spouse** means a person who is entitled or conditionally entitled under an agreement, or a court order, under the Family Law Act, part VIIIB,<sup>2</sup> to payment of a part of a benefit that would otherwise be payable under this Act to a retired judge.

**Family Law Act** means the *Family Law Act 1975* (Cwlth).

**operative time**, for an agreement or court order, is the time that is, under the Family Law Act, part VIIIB, the operative time in relation to the payment split or payment flag under the agreement or order.

### 10          Providing information

- (1) This section applies if an eligible person within the meaning of the Family Law Act, section 90MZB,<sup>3</sup> applies under that section to the Minister for information about a benefit that is being paid, or may become payable, under this Act.
- (2) The Minister must give to the eligible person the information as required under the Family Law Act.
- (3) If the information is about a benefit for a judge, the information may include an accrued benefit multiple for the benefit decided by the Minister on the advice of an actuary.

---

2     The Family Law Act, part VIIIB (Superannuation interests)

3     The Family Law Act, section 90MZB (Trustee to provide information)

**11 Agreement or court order—minimum benefit**

- (1) This section applies if—
  - (a) the Minister receives an agreement or court order that relates to a person who, at the operative time for the agreement or order, is a judge; and
  - (b) the benefit that becomes payable under this Act in relation to the person is a minimum benefit under section 2C.<sup>4</sup>
- (2) The Minister must pay to an approved deposit fund, or a superannuation fund, nominated by the entitled former spouse for the agreement or court order the amount to which he or she is entitled under the agreement or order.
- (3) However, if the entitled former spouse does not nominate a fund for subsection (2) within 3 months after the day the minimum benefit becomes payable, the Minister must pay the amount to the State Public Sector Superannuation Fund on behalf of the entitled former spouse.
- (4) The Minister must reduce the benefit that, other than for the agreement or court order, would be payable under this Act in relation to the person mentioned in subsection (1) by the amount paid to the entitled former spouse.
- (5) This section does not apply to an agreement or court order if section 13 applies to the agreement or order.
- (6) In this section—

*State Public Sector Superannuation Fund* means the State Public Sector Superannuation Fund under the *Superannuation (State Public Sector) Act 1990*.

**12 Agreement or court order—pension**

- (1) This section applies if—
  - (a) the Minister receives an agreement or court order that relates to a person who, at the operative time for the agreement or order, is a judge or a retired judge; and

---

4 Section 2C (Minimum benefit payable)

- (b) the benefit that is being paid, or becomes payable, under this Act to the person is a pension (a *relevant benefit*).
- (2) Subject to subsection (4), the Minister must pay the entitled former spouse for the agreement or court order the proportion, stated in the agreement or order, of the relevant benefit to which he or she is entitled under the agreement or order (the *spousal amount*).
- (3) The Minister must reduce the relevant benefit that, other than for the agreement or court order, would be payable under this Act to the person mentioned in subsection (1) by the spousal amount.
- (4) The Minister must pay the entitled former spouse a pension for his or her lifetime (a *lifetime pension*) if the entitled former spouse elects, by written notice given to the Minister, to be paid a lifetime pension.
- (5) The notice must be given to the Minister—
  - (a) if the Minister receives the agreement or court order before the relevant benefit becomes payable—within 3 months after it becomes payable; or
  - (b) otherwise—within 3 months after the day the Minister receives the agreement or order.
- (6) If the entitled former spouse elects to be paid a lifetime pension, the amount of the pension must be calculated in the way decided by the Minister on the advice of an actuary.

### **13 Agreement or court order—death of judge in office**

- (1) This section applies if the Minister receives an agreement or court order that relates to a person who—
  - (a) is a judge at the operative time for the agreement or order; and
  - (b) dies while holding office as a judge.
- (2) The Minister must pay the entitled former spouse for the agreement or court order a pension for his or her lifetime (a *lifetime pension*).



- (3) The amount of the lifetime pension must be—
- (a) calculated in the way decided by the Minister on the advice of an actuary; and
  - (b) based on the proportion, stated in the agreement or court order, of the pension that would have been payable to the person mentioned in subsection (1) if the person had been entitled to the pension under section 5<sup>5</sup> immediately before the person's death.

#### **14 Effect of agreement or court order on particular pensions**

Despite section 7 or 8,<sup>6</sup> an entitled former spouse is not entitled to receive a pension under any of the provisions.

#### **14A Minister to inform entitled former spouse**

If the Minister receives an agreement or court order from a person other than the entitled former spouse for the agreement or order, the Minister must as soon as practicable inform the entitled former spouse of the receipt of the agreement or order.

## **Part 3 Other matters**

### **15 Leave of absence of judges**

- (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—<sup>6</sup>/<sub>7</sub> of a month.

---

5 Section 5 (Pension of judge retiring on account of ill health)

6 Section 7 (Pension of spouse on death of judge) or 8 (Pension of spouse on death of retired judge)

*Judges (Pensions and Long Leave) Act 1957*

---

- (2) The prescribed authority must grant leave of absence to a judge who applies for and is entitled to leave of absence under subsection (1).
- (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 prescribed authority 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 prescribed authority, the judge forfeits all rights in relation to the leave of absence.
- (5) A judge who is entitled to additional leave of absence under subsection (1) may, with the prescribed authority's approval, and subject to the administrative requirements of the court, take the additional leave in periods of less than 6 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.
- (8) In this section—

***prescribed authority***, for leave of absence to a judge, means—

- (a) the Governor in Council, if the judge is—
  - (i) the Chief Justice; or
  - (ii) the Chief Judge; or
  - (iii) the Chief Magistrate; or
- (b) the Chief Justice, if the judge is a Supreme Court judge and paragraph (a) does not apply; or
- (c) the Chief Judge, if the judge is a District Court judge and paragraph (a) does not apply.

**15A Rate of accrual of entitlement relating to a judge to whom s 2AA applies if rate of accrual different to rate under s 15**

- (1) This section applies to a judge to whom section 2AA applies.
- (2) In working out an entitlement under section 15 in relation to the judge, the previous rate is to be used in relation to any period of service as a judge of another Australian court that is counted as service as a judge.
- (3) In this section—

*another Australian court* means a court of the Commonwealth or another State, other than a magistrates court of the Commonwealth or the other State.

*previous rate* means the rate at which the judge, when a judge of another Australian court, previously accrued an entitlement to additional leave of absence (however described).

**16 What happens if judge removed from office**

- (1) If a judge is removed from office under the *Constitution of Queensland 2001*, section 61,<sup>7</sup> 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 proved incapacity.
- (2) However, the Governor in Council may decide that this Act applies to the judge despite subsection (1).

**17 Payment of pensions etc.**

- (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.

---

<sup>7</sup> *Constitution of Queensland 2001*, section 61 (Removal from office for misbehaviour or incapacity)

**18 Retired judge serving in judicial office**

- (1) 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 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.
- (2) However subsection (1) does not apply to a judge if—
  - (a) the judge is 65 years of age or more; or
  - (b) the service by the judge in the judicial office of the Commonwealth or a State is limited service.
- (3) For subsection (2)(b), limited service is service under any of the following—
  - (a) an appointment to a judicial office if the period of service is not for more than 6 months or, if there is more than 1 period of service, the periods are not more than 6 months when aggregated in any financial year;
  - (b) an appointment to a judicial office if the remuneration for the service under the appointment is based on the actual hours for which, or days on which, the judicial officer presides or sits;
  - (c) an appointment to a judicial office on a part-time basis if the remuneration payable for the appointment is limited to not more than 50% of the remuneration that would be payable to a holder of the judicial office if it were an appointment on a full-time basis.
- (4) A judge is taken to be appointed in a judicial office for a period of no more than 6 months even if the judge continues to be the judicial officer so far as it is necessary to give a decision in a matter that is partly heard or standing for the decision of the judicial officer at the end of the 6 months.
- (5) To remove any doubt, it is declared that the *Anti-Discrimination Act 1991* does not apply in relation to this

section or acts necessary to ensure compliance with this section.

(6) In this section—

*appointment* includes an acting appointment.

## **18A Minister is manager for Commonwealth Act**

(1) This section applies for the definition *trustee* in section 38 of the Commonwealth Act in relation to the scheme as a constitutionally protected superannuation fund under the Commonwealth Act.

(2) The Minister is taken to manage the scheme.

(3) In this section—

*Commonwealth Act* means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth).

*scheme* means—

- (a) the scheme established by this Act for providing pensions to judges and to their spouses and children; or
- (b) the scheme established by this Act as it applies for providing pensions to members under the *Industrial Relations Act 1999* and to their spouses and children because of schedule 2, section 2 of that Act; or
- (c) the scheme established by this Act as it applies for providing pensions to members of the Land Court because of the *Land Court Act 2000*, section 40.

## **19 Act subject to Supreme Court of Queensland Act**

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

## **20 Regulations**

The Governor in Council may make regulations under this Act.

## **Part 4                      Transitional provisions**

### **Division 1                      Provision for the Statute Law Revision Act (No. 2) 1995**

#### **21            Judges' Pensions Act 1957 references**

In an Act or document, a reference to the *Judges' Pensions Act 1957* is a reference to this Act.

### **Division 2                      Provision for the Judicial Remuneration Act 2007, schedule 1**

#### **22            Application of s 18**

- (1) This section applies to a judge who, at the commencement of this section, was serving for a period in a judicial office of the Commonwealth or a State.
- (2) Section 18(2) to (6) does not apply to the judge in relation to that service in the judicial office.
- (3) However, if the service stops and the judge subsequently serves for another period in a judicial office of the Commonwealth or a State, section 18 applies to the judge even if the service is under an appointment to the same judicial office.

## Schedule                      Dictionary

### section 2

**agreement**, for part 2, division 2, see section 9.

**approved deposit fund** see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10.<sup>8</sup>

**court order**, for part 2, division 2, see section 9.

**eligible child**, of a judge, see section 8A(1).

**entitled former spouse**, for part 2, division 2, see section 9.

**Family Law Act**, for part 2, division 2, see section 9.

**judge** means—

- (a) a Supreme Court judge; or
- (b) a District Court judge.

**live together as a couple** means live together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA.<sup>9</sup>

**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, or had been removed from office because of proved incapacity, 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.

<sup>8</sup> *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10—

**approved deposit fund** means a fund that:

- (a) is an indefinitely continuing fund; and
- (b) is maintained by an RSE licensee that is a constitutional corporation; and
- (c) is maintained solely for approved purposes.

<sup>9</sup> *Acts Interpretation Act 1954*, section 32DA (Meaning of *de facto partner*)

## Schedule (continued)

**operative time**, for part 2, division 2, see section 9.

**proved incapacity**, in relation to a judge, means proved incapacity to perform the duties of the office.

**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.

**superannuation fund** see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10.<sup>10</sup>

**surcharge liability** means the amount a person is liable to pay to the commissioner of taxation, under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth), section 15.

**surcharge liability notice** means a notice given to a person by the commissioner of taxation, under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth), section 15.

---

<sup>10</sup> *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10—

**superannuation fund** means—

- (a) a fund that—
  - (i) is an indefinitely continuing fund; and
  - (ii) is a provident, benefit, superannuation or retirement fund; or
- (b) a public sector superannuation scheme.



## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	23
3 Key . . . . .	23
4 Table of reprints . . . . .	24
5 List of legislation . . . . .	24
6 List of annotations . . . . .	26

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 30 November 2007. Future amendments of the Judges (Pensions and Long Leave) Act 1957 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1992 Act No. 14	13 May 1992	1 December 1992
2	1994 Act No. 76	1 December 1994	22 December 1994
2A	1995 Act No. 58	28 November 1995	26 June 1996
2B	1996 Act No. 79	28 November 1995	20 February 1997
2C	1996 Act No. 79	28 February 1997	14 March 1997
3	1999 Act No. 16	22 April 1999	4 June 1999
3A	1999 Act No. 74	22 April 1999	5 January 2000
3B	2000 Act No. 58	17 November 2000	1 December 2000

Reprint No.	Amendments included	Effective	Notes
3C	1999 Act No. 74 2002 Act No. 57	6 December 2002	
3D	2002 Act No. 74	1 April 2003	
3E	2003 Act No. 77	8 December 2003	
3F	2004 Act No. 42	17 December 2004	
3G	2007 Act No. 37	28 September 2007	
3H	2007 Act No. 55	30 November 2007	

## 5 List of legislation

### **Judges (Pensions and Long Leave) Act 1957 6 Eliz 2 No. 38 (prev Judges' Pensions Act 1957)**

date of assent 17 December 1957

commenced on date of assent

amending legislation—

### **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**

date of assent 15 December 1972

commenced on date of assent

### **Judges' Pensions Act Amendment Act 1974 No. 29**

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 ss 1–2, 111 sch 2**

date of assent 24 October 1991  
ss 1–2 commenced on date of assent  
remaining provisions commenced 14 December 1991 (see s 2(1) and 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

**Judicial Legislation Amendment Act 1994 No. 76 pts 1, 3**

date of assent 1 December 1994  
ss 6–7 commenced 14 December 1991 (see s 2)  
remaining provisions commenced on date of assent

**Justice and Attorney-General (Miscellaneous Provisions) Act 1995 No. 24 pts 1, 5**

date of assent 11 April 1995  
commenced on date of assent

**Superannuation Legislation Amendment Act 1995 No. 27 pts 1, 3**

date of assent 14 June 1995  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1992 (see s 2(3))

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 2**

date of assent 28 November 1995  
commenced on date of assent

**Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 16**

date of assent 12 December 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 28 February 1997 (1997 SL No. 35)

**Justice Legislation (Miscellaneous Provisions) Act 1999 No. 16 s 1 pt 5**

date of assent 22 April 1999  
commenced on date of assent

**Superannuation Legislation Amendment Act 1999 No. 74 pts 1, 3**

date of assent 14 December 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 6 December 2002 (2002 SL No. 318)  
Note—AIA s 15DA does not apply to pt 3 (see s 2(2))

**Justice and Other Legislation (Miscellaneous Provisions) Act 2000 No. 58 ss 1–2 sch**

date of assent 17 November 2000

commenced on date of assent

**Superannuation Legislation Amendment Act 2002 No. 57 pts 1, 3**

date of assent 1 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 6 December 2002 (2002 SL No. 319)

**Discrimination Law Amendment Act 2002 No. 74 pts 1, 6**

date of assent 13 December 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

**Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(3), pt 16**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 8 December 2003 (2003 SL No. 310)

**Superannuation Legislation Amendment Act 2004 No. 42 pts 1, 3, s 33 sch**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 17 December 2004 (2004 SL No. 284)

**Justice and Other Legislation Amendment Act 2007 No. 37 pts 1, 16**

date of assent 29 August 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 28 September 2007 (2007 SL No. 241)

**Judicial Remuneration Act 2007 No. 55 ss 1–2(1), 54 sch 1**

date of assent 9 November 2007

ss 1–2, 54 commenced on date of assent

sch 1 amdts 1–3, 6–9, 12–13 commenced 30 November 2007 (2007 SL No. 294)

remaining provisions not yet proclaimed into force (see s 2(1))

## 6 List of annotations

**Title** sub 1992 No. 14 s 2 sch**PART 1—PRELIMINARY****pt hdg** ins 2004 No. 42 s 33 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

amd 2004 No. 42 s 7(1)

Note—prev s 2 contained definitions for this Act. Definitions are now located in the schedule—Dictionary.

**Length of service if previously an acting judge in Queensland****prov hdg** amd 2007 No. 55 s 54 sch 1**s 2A** ins 1991 No. 68 s 111 sch 2

amd 2007 No. 55 s 54 sch 1

**Length of service if previously a judge in a court of the Commonwealth or another State****s 2AA** ins 2007 No. 55 s 54 sch 1**Salary of judges who died or retired before 1984 Amendment Act****s 2B** ins 1994 No. 76 s 7**PART 2—PENSIONS AND OTHER ENTITLEMENTS****pt hdg** ins 2004 No. 42 s 33 sch**Division 1—General provisions****div hdg** ins 2004 No. 42 s 33 sch**Minimum benefit payable****s 2C** ins 1995 No. 27 s 8

amd 1999 No. 16 s 14; 2004 No. 42 s 33 sch

**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; 2003 No. 77 s 82

**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; 2002 No. 57 s 6; 2002 No. 74 s 48; 2003 No. 77 s 83

**Pension of spouse on death of retired judge****s 8** sub 1984 No. 10 s 8; 1992 No. 14 s 2 sch

amd 2002 No. 57 s 7; 2002 No. 74 s 49

**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

amd 2002 No. 74 s 50

**Election to take part of pension as a lump sum to meet surcharge liability****s 8B** prev 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  
 pres s 8B ins 1999 No. 74 s 9

**Service in other jurisdictions not counted**

**s 8C** prev s 8C ins 1974 No. 29 s 3(1)  
 om 1984 No. 10 s 11  
 pres s 8C ins 2007 No. 55 s 54 sch 1

**Division 2—Provisions for agreements and court orders under the Family Law Act**  
**div hdg** ins 2004 No. 42 s 8**Definitions for div 2**

**s 9** prev s 9 om 1992 No. 14 s 2 sch  
 pres s 9 ins 2004 No. 42 s 8

**Providing information**

**s 10** prev s 10 amd 1967 No. 40 s 16  
 om 1992 No. 14 s 2 sch  
 pres s 10 ins 2004 No. 42 s 8

**Agreement or court order—minimum benefit**

**s 11** prev s 11 om 1991 No. 68 s 111 sch 2  
 pres s 11 ins 2004 No. 42 s 8

**Agreement or court order—pension**

**s 12** prev s 12 om 1991 No. 68 s 111 sch 2  
 pres s 12 ins 2004 No. 42 s 8

**Agreement or court order—death of judge in office**

**s 13** prev s 13 om 1991 No. 68 s 111 sch 2  
 pres s 13 ins 2004 No. 42 s 8

**Effect of agreement or court order on particular pensions**

**s 14** prev s 14 om 1991 No. 68 s 111 sch 2  
 pres s 14 ins 2004 No. 42 s 8

**Minister to inform entitled former spouse**

**s 14A** ins 2004 No. 42 s 8

**PART 3—OTHER MATTERS**

**pt hdg** ins 2004 No. 42 s 33 sch

**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; 1995  
 No. 24 s 15; 1996 No. 79 s 50; 2000 No. 58 s 2 sch; 2007 No. 37 s 89

**Rate of accrual of entitlement relating to a judge to whom s 2AA applies if rate of  
 accrual different to rate under s 15**

**s 15A** ins 2007 No. 55 s 54 sch 1

**What happens if judge removed from office**

**s 16** ins 1992 No. 14 s 2 sch

sub 1994 No. 76 s 8  
amd 2003 No. 77 s 84

**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  
amd 2007 No. 55 s 54 sch 1

**Minister is manager for Commonwealth Act**

**s 18A** ins 2002 No. 57 s 8

**Act subject to Supreme Court of Queensland Act**

**s 19** (prev s 16) sub 1991 No. 68 s 111 sch 2  
renum 1992 No. 14 s 2 sch

**Regulations**

**s 20** ins 1992 No. 14 s 2 sch  
amd 1995 No. 58 s 4 sch 2

**PART 4—TRANSITIONAL PROVISIONS**

**pt hdg** ins 2004 No. 42 s 33 sch  
sub 2007 No. 55 s 54 sch 1

**Division 1—Provision for the Statute Law Revision Act (No. 2) 1995**

**div hdg** ins 2007 No. 55 s 54 sch 1

**Judges' Pensions Act 1957 references**

**s 21** ins 1995 No. 58 s 4 sch 2

**Division 2—Provision for the Judicial Remuneration Act 2007, schedule 1**

**div 2 (s 22)** ins 2007 No. 55 s 54 sch 1

**SCHEDULE—DICTIONARY**

ins 2004 No. 42 s 33 sch

Note—definitions for this Act were originally located in prev s 2

def **“agreement”** ins 2004 No. 42 s 7(2)

reloc 2004 No. 42 s 7(3)

def **“approved deposit fund”** ins 2004 No. 42 s 7(2)

reloc 2004 No. 42 s 7(3)

def **“court order”** ins 2004 No. 42 s 7(2)

reloc 2004 No. 42 s 7(3)

def **“eligible child”** ins 1999 No. 74 s 8

reloc 2004 No. 42 s 7(3)

def **“entitled former spouse”** ins 2004 No. 42 s 7(2)

reloc 2004 No. 42 s 7(3)

def **“Family Law Act”** ins 2004 No. 42 s 7(2)

reloc 2004 No. 42 s 7(3)

def **“judge”** sub 1991 No. 68 s 111 sch 2

reloc 2004 No. 42 s 7(3)

def **“live together as a couple”** ins 2002 No. 74 s 47

reloc 2004 No. 42 s 7(3)

def **“notional pension”** ins 1992 No. 14 s 3

- amd 2003 No. 77 s 81(2)
- reloc 2004 No. 42 s 7(3)
- def **“operative time”** ins 2004 No. 42 s 7(2)
  - reloc 2004 No. 42 s 7(3)
- def **“proved incapacity”** ins 2003 No. 77 s 81(1)
  - reloc 2004 No. 42 s 7(3)
- def **“salary”** amd 1984 No. 10 s 2
  - sub 1991 No. 68 s 111 sch 2; 1994 No. 76 s 6
  - reloc 2004 No. 42 s 7(3)
- def **“superannuation fund”** ins 2004 No. 42 s 7(2)
  - reloc 2004 No. 42 s 7(3)
- def **“surcharge liability”** ins 1999 No. 74 s 8
  - reloc 2004 No. 42 s 7(3)
- def **“surcharge liability notice”** ins 1999 No. 74 s 8
  - reloc 2004 No. 42 s 7(3)