



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

**Current as at 1 March 2017**





## Queensland

# Judges (Pensions and Long Leave) Act 1957

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# Judges (Pensions and Long Leave) Act 1957

**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 schedule 1 defines particular words used in this Act.

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

For this Act, in deciding the length of service as a judge, service as any of the following is to be counted as service as a judge—

- (a) an acting Supreme Court judge, other than service as a retired acting Supreme Court judge;
- (b) an acting District Court judge, other than service as a retired acting District Court judge;
- (c) a master.

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

- (1) This section applies to a person serving 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.

**2AB Length of service if previously CCC chairperson**

- (1) This section applies to a person serving as a judge after the commencement, whether the judge was appointed before or after the commencement.
- (2) For this Act, in deciding the length of service as a judge, a period for which the person held office as the CCC chairperson after 27 March 2015 is to be counted as service as a judge.
- (3) The period for which the person held office as the CCC chairperson after 27 March 2015 includes a period for which the person acted as the CCC chairperson that is to be counted as a period for which the person held office as the chairperson under the CC Act, section 238C(b).

*Note—*

See also the CC Act, section 423(2).

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**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.

***latest notional salary package amount***, for a judge, means the judge's notional salary package amount applicable under the *Judicial Remuneration Act 2007*.

*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.

## **2BA Salary of District Court judge if previously CCC chairperson**

- (1) This section applies to a District Court judge if—
  - (a) an entitlement to a pension under this Act arises for the judge in his or her capacity as a District Court judge; and
  - (b) when the entitlement arises, an entitlement to a pension under this Act, as applying under the CC Act, chapter 6, part 1, division 2, subdivision 3, exists for the judge in his or her capacity as a former CCC chairperson (whether or not that pension has become payable under the CC Act, section 238F).

*Note—*

Under the CC Act, section 238J, a pension payable in relation to a former CCC chairperson under this Act, as applying under the CC Act, chapter 6, part 1, division 2, subdivision 3, stops being payable if a pension is payable in relation to the former CCC chairperson under this Act in the former CCC chairperson's capacity as a judge.

- (2) For the purposes of this Act, the judge's salary is the prescribed salary within the meaning of the CC Act, section 238A.
- (3) In this section—

*former CCC chairperson* means a person who has held office as the CCC chairperson.



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## 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—

*acting District Court judge* includes a retired acting District Court judge.

*acting Supreme Court judge* includes a retired acting Supreme Court judge.

*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—

[s 4]

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- (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;

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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).

## **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 civil partner, the spouse is entitled to a pension under subsection (1) only if the spouse entered into the civil partnership with the retired judge before the judge's retirement; and
  - (c) 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
      - (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
  - (d) if the retired judge died leaving more than 1 spouse—

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- (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)(c) 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
    - (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—
  - (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, 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, 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.

## 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.



- (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
  - (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 immediately before the person's death.

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

Despite section 7 or 8, 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— $\frac{6}{7}$  of a month.
- (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 the Chief Justice and the leave of absence is more than 1 month; or
- (b) the Chief Justice, if the judge is—
  - (i) the Chief Judge; or
  - (ii) the Chief Magistrate and paragraph (c)(i) does not apply; or
  - (iii) a Supreme Court judge, other than the Chief Justice; or
- (c) the Chief Judge, if the judge is—
  - (i) a District Court judge who is the Chief Magistrate; or
  - (ii) a District Court judge, other than the Chief Judge; or
- (d) the Minister, if the judge is the Chief Justice and the leave of absence is 1 month or less.

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**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, 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.

**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.

### **18AA Retired judge appointed as CCC chairperson**

- (1) This section applies if, after retirement, a judge who is entitled to a pension under this Act is appointed as the CCC chairperson.
- (2) The judge's pension is not payable while the judge holds office as the CCC chairperson unless the judge is 65 years of age or more.
- (3) The *Anti-Discrimination Act 1991* does not apply in relation to this section or acts necessary to ensure compliance with this section.

### **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 2016* and to their spouses and children because of section 587 of that Act; or

[s 19]

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- (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; or
- (d) the scheme established by this Act as it applies for providing pensions to a CCC chairperson, and to a CCC chairperson's spouse and children, because of the CC Act, section 238B.

## **19 Act subject to other Acts**

This Act has effect subject to the *Judicial Remuneration Act 2007* and 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 1 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.

**CC Act** means the *Crime and Corruption Act 2001*.

**CCC chairperson** means the chairperson of the Crime and Corruption Commission.

**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.

**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.

**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.

***retired acting District Court judge*** means a retired District Court judge appointed to act as a judge under the *District Court of Queensland Act 1967*, section 17(3).

***retired acting Supreme Court judge*** means a retired Supreme Court judge appointed to act as a judge under the *Supreme Court of Queensland Act 1991*, section 6(1), (2) or (4).

***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.

***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.

## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 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      |
| amd  | = amendment                    | prov   | = provision         |
| t    |                                |        |                     |
| 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                      | renu   | = renumbered        |
|      |                                | m      |                     |
| ins  | = inserted                     | rep    | = repealed          |
| lap  | = lapsed                       | (retro | = retrospectively   |
|      |                                | )      |                     |
| notf | = notified                     | rv     | = revised version   |
| d    |                                |        |                     |
| num  | = numbered                     | s      | = section           |

| <b>Key</b>    | <b>Explanation</b>        | <b>Key</b>   | <b>Explanation</b>                             |
|---------------|---------------------------|--------------|--|
| <b>o in c</b> | = <b>order in council</b> | <b>sch</b>   | = <b>schedule</b>                              |
| <b>om</b>     | = <b>omitted</b>          | <b>sdiv</b>  | = <b>subdivision</b>                           |
| <b>orig</b>   | = <b>original</b>         | <b>SIA</b>   | = <b>Statutory Instruments Act 1992</b>        |
| <b>p</b>      | = <b>page</b>             | <b>SIR</b>   | = <b>Statutory Instruments Regulation 2012</b> |
| <b>para</b>   | = <b>paragraph</b>        | <b>SL</b>    | = <b>subordinate legislation</b>               |
| <b>prec</b>   | = <b>preceding</b>        | <b>sub</b>   | = <b>substituted</b>                           |
| <b>pres</b>   | = <b>present</b>          | <b>unnum</b> | = <b>unnumbered</b>                            |
|               |                           | <b>m</b>     |  |
| <b>prev</b>   | = <b>previous</b>         |              |  |

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| <b>Reprint No.</b> | <b>Amendments to</b> | <b>Effective</b> | <b>Reprint date</b> |
|--------------------|----------------------|------------------|---------------------|
| 1                  | 1992 Act No. 14      | 13 May 1992      | 1 December 1992     |
| 2                  | 1994 Act No. 76      | 1 December 1994  | 22 December 1994    |

| <b>Reprint No.</b> | <b>Amendments to</b> | <b>Effective</b> | <b>Reprint date</b> |
|--------------------|----------------------|------------------|---------------------|
| 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     |

| <b>Reprint No.</b> | <b>Amendments included</b>         | <b>Effective</b>  | <b>Notes</b>          |
|--------------------|------------------------------------|-------------------|-----------------------|
| 3C                 | 1999 Act No. 74<br>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  |                       |
| 3I                 | 2008 Act No. 4                     | 20 February 2008  |                       |
| 3J                 | 2007 Act No. 55                    | 14 March 2008     | R3J withdrawn, see R4 |
| 4                  | —                                  | 14 March 2008     |                       |
| 4A                 | 2008 Act No. 59                    | 25 November 2008  |                       |
| 4B                 | 2010 Act No. 42                    | 14 October 2010   |                       |
| 4C                 | 2012 Act No. 46                    | 23 February 2012  |                       |
| 4D                 | 2012 Act No. 12                    | 27 June 2012      |                       |
| 4E                 | 2011 Act No. 45                    | 1 September 2012  |                       |

| <b>Current as at</b> | <b>Amendments included</b> | <b>Notes</b> |
|----------------------|----------------------------|--------------|
| 29 August 2013       | 2013 Act No. 35            |              |
| 14 May 2015          | 2015 Act No. 2             |              |
| 22 March 2016        | 2015 Act No. 33            |              |
| 5 May 2016           | 2016 Act No. 19            |              |
| 1 March 2017         | 2016 Act No. 63            |              |

## **4 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 commenced 14 March 2008 (2008 SL No. 62)

**Drugs Misuse Amendment Act 2008 No. 4 s 1, pt 4**

date of assent 20 February 2008

commenced on date of assent

**Justice and Other Legislation Amendment Act 2008 No. 59 pts 1, 15**

date of assent 25 November 2008

commenced on date of assent

**Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 18**

date of assent 14 October 2010

commenced on date of assent

**Civil Proceedings Act 2011 No. 45 ss 1–2, pt 20**

date of assent 6 December 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 2012 (2012 SL No. 146)

**Civil Partnerships Act 2011 No. 46 ss 1–2, pt 6 div 12**

date of assent 6 December 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 23 February 2012 (2012 SL No. 15)

**Civil Partnerships and Other Legislation Amendment Act 2012 No. 12 pt 1, s 59 sch pts 2–3**

date of assent 27 June 2012

commenced on date of assent

**Justice and Other Legislation Amendment Act 2013 No. 35 s 1, pt 20**

date of assent 29 August 2013

commenced on date of assent

**Electoral and Other Legislation Amendment Act 2015 No. 2 chs 1, 3 pt 2**

date of assent 14 May 2015  
commenced on date of assent

**Relationships (Civil Partnerships) and Other Acts Amendment Act 2015 No. 33 ss 1–2, 52 sch pts 2–3**

date of assent 17 December 2015  
ss 1–2 commenced on date of assent  
remaining provisions commenced 22 March 2016 (2016 SL No. 14)

**Crime and Corruption Amendment Act 2016 No. 19 pt 1, s 46 sch 1**

date of assent 5 May 2016  
commenced on date of assent

**Industrial Relations Act 2016 No. 63 ss 1, 2(2), 1157 sch 6**

date of assent 9 December 2016  
ss 1–2 commenced on date of assent  
s 1157 sch 6 commenced 1 March 2017 (2017 SL No. 24)

## 5 List of annotations

**Long 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); 2015 No. 2 s 51

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 or master in Queensland**

**s 2A** ins 1991 No. 68 s 111 sch 2  
amd 2007 No. 55 s 54 sch 1  
sub 2011 No. 45 s 148  
amd 2013 No. 35 s 87

**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  
amd 2008 No. 4 s 49

**Length of service if previously CCC chairperson**

**s 2AB** ins 2015 No. 2 s 52  
amd 2016 No. 19 s 46 sch 1

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

s 2B ins 1994 No. 76 s 7  
amd 2007 No. 55 s 54 sch 1

**Salary of District Court judge if previously CCC chairperson**

s 2BA ins 2015 No. 2 s 53  
amd 2016 No. 19 s 46 sch 1

**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; 2013 No. 35 s 88

**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; 2011 No. 46 s 63; 2012 No. 12 s 59 sch pts  
2–3; 2015 No. 33 s 52(2)–(3) sch pts 2–3

**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 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; 2008 No. 59 s 59;  
2010 No. 42 s 119

**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

**Retired judge appointed as CCC chairperson**

s 18AA ins 2015 No.2 s 54  
amd 2016 No. 19 s 46 sch 1

**Minister is manager for Commonwealth Act**

s 18A ins 2002 No. 57 s 8  
amd 2015 No. 2 s 55; 2016 No. 19 s 46 sch 1; 2016 No. 63 s 1157 sch 6

**Act subject to other Acts**

s 19 (prev s 16) sub 1991 No. 68 s 111 sch 2  
renum 1992 No. 14 s 2 sch  
amd 2007 No. 55 s 54 sch 1

**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 1—DICTIONARY**

(prev sch) ins 2004 No. 42 s 33 sch  
num 2015 No. 2 s 56(2)  
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 *CC Act* ins 2015 No. 2 s 56(1)  
def *CCC chairperson* (prev def *CCC chairman*) ins 2015 No. 2 s56(1)  
amd 2016 No. 19 s 46 sch 1  
def *court order* ins 2004 No. 42 s 7(2)

Endnotes

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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 *retired acting District Court judge* ins 2013 No. 35 s 89  
def *retired acting Supreme Court judge* ins 2013 No. 35 s 89  
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)

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