

NORTHERN TERRITORY OF AUSTRALIA

SUPREME COURT (JUDGES PENSIONS) ACT

As in force at 1 April 1995

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NORTHERN TERRITORY OF AUSTRALIA

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SUPREME COURT (JUDGES PENSIONS) ACT

An Act to provide for pensions to Judges

1 Short title

This Act may be cited as the *Supreme Court (Judges Pensions) Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

acting Judge and **additional Judge** have the meanings ascribed thereto by the *Supreme Court Act*.

appropriate current judicial salary, in relation to a Judge who has retired or died, means salary at the rate that would have been payable to the Judge if he had not retired or died.

child includes an adopted child.

eligible child means:

- (a) a child who has not attained the age of 16 years; or
- (b) a child who:
 - (i) has attained the age of 16 years but has not attained the age of 25 years; and
 - (ii) is receiving full-time education at a school, college or university.

Judge does not include an acting Judge or additional Judge.

prior judicial service, in relation to a Judge or retired Judge means service as a judge of a court constituted by or under the law of another State or Territory or of the Commonwealth (other than

service as a Magistrate or a Justice of the Peace) being service prior to the appointment of that person as a Judge.

retired Judge means a person who has been a Judge and is or has been in receipt of a pension under this Act.

retires, in relation to a Judge, means ceases to be a Judge otherwise than by death.

- (2) For the purposes of this Act, a period of service by a Judge:
- (a) as an acting Judge;
 - (b) as a Judge of the Supreme Court of the Northern Territory constituted by the *Northern Territory Supreme Court Act 1961* of the Commonwealth; or
 - (c) being a period of prior judicial service,
- (whether or not immediately before a period of service as a Judge) shall be added to and deemed to be part of the period of service as a Judge.
- (3) For the purposes of this Act, where a widow of a Judge or retired Judge has remarried and the parties to the remarriage have adopted a child that was not a child of the widow of the Judge or retired Judge, that child shall be deemed to be a child of the remarriage.

4 Pensions of Judges

- (1) Where a Judge who has attained the age of 60 years retires after serving as a Judge for not less than 10 years, he is entitled to a pension at a rate equal to 60 per cent of the appropriate current judicial salary.
- (2) Where:
- (a) a Judge, whether by reason of the terms of his appointment or otherwise, is to cease to hold office as a Judge upon his attaining a particular age;
 - (b) he ceases to be a Judge upon his attaining that age;
 - (c) at the time of his so ceasing, he had served as a Judge for not less than 6 years; and
 - (d) he is not a person to whom subsection (1) applies,

he is entitled to a pension at a rate equal to:

(e) 0.5% of the appropriate current judicial salary for each completed month of his period of service as a Judge; or

(f) 60% of the appropriate current judicial salary,

whichever results in the lesser pension entitlement.

(3) Where a Judge, not being a Judge to whom subsection (1) or (2) applies, retires and the Attorney-General certifies that the retirement is due to permanent disability or infirmity, the Judge is entitled to a pension at a rate equal to:

(a) if, at the time of his appointment, his period of service as a Judge could not exceed 10 years, 0.5% of the appropriate current judicial salary for each complete month:

(i) of his prior judicial service (if any); and

(ii) that he could have potentially served, calculated from his appointment as a Judge until he would have ceased to hold office as a Judge upon his attaining a particular age; or

(b) in all other cases – 60% of the appropriate current judicial salary.

5 Pension to widow on death of Judge

(1) Where a Judge dies leaving a widow, a pension shall be paid to the widow at a rate equal to five-eighths of the rate of the pension that would have been payable to the Judge if the Judge had retired on the date of his death and (in a case where section 4(1) would not have been applicable in relation to that retirement) the Attorney-General had certified that that retirement was due to permanent disability.

(2) If a widow in receipt of a pension under this section remarries, the pension ceases.

6 Pension to widow on death of retired Judge

(1) Where a retired Judge dies leaving a widow whose marriage to the retired Judge occurred:

(a) before the retirement; or

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- (b) after the retirement but:
 - (i) before the retired Judge attained the age of 60 years; or
 - (ii) not less than 5 years before the retired Judge died,

a pension shall be paid to the widow at a rate equal to five-eighths of the rate of the pension that would have been payable to the retired Judge if he had not died.

- (2) If a widow in receipt of a pension under this section remarries, the pension ceases.

7 Pension in respect of children on death of Judge

Where a Judge dies leaving a widow there shall, in addition to any pension that is payable to the widow under section 5, be paid to the widow, in respect of each eligible child of the widow or of the Judge (other than a child of any remarriage of the widow) a pension at the rate of \$208 per annum.

8 Pension in respect of children on death of retired Judge

- (1) Subject to this section, where a retired Judge dies leaving a widow, there shall, in addition to any pension that is payable to the widow under section 6, be paid to the widow in respect of each eligible child of the widow or of the retired Judge (other than a child of any remarriage of the widow) a pension at the rate of \$208 per annum.
- (2) Where a retired Judge married:
 - (a) after his retirement;
 - (b) after he attained the age of 60 years; and
 - (c) less than 5 years before he died,

a pension is not, upon the death of the retired Judge, payable under this section in respect of:

- (d) a child of that marriage; or
- (e) any other child of the widow.

9 Pension in respect of children on death of widow

- (1) Subject to this section, where the widow of a Judge or retired Judge, being a widow who became entitled upon the death of the Judge or retired Judge to a pension under this Act, has died, there shall be paid, in respect of each eligible child of the widow of the Judge or retired Judge (other than a child of any remarriage of the

widow) a pension at the rate of \$520 per annum or at the rate of such amount per annum as is determined in accordance with subsection (2), whichever is the higher rate.

- (2) The amount to be determined for the purposes of subsection (1) is the sum of \$208 and an amount ascertained by dividing by 4 (or, if the number of eligible children in respect of whom pension is payable under this section is greater than 4, by the number of those children) the annual amount of the pension that, but for the death of the widow and but for any remarriage of the widow, would, by virtue of section 5 or 6, have been payable to the widow.
- (3) Where a retired Judge married:
 - (a) after his retirement;
 - (b) after he attained the age of 60 years; and
 - (c) less than 5 years before he died,a pension is not, upon the death of the widow of the retired Judge, payable under this section in respect of:
 - (d) a child of that marriage; or
 - (e) any other child of the widow.

10 Pension in respect of children on death of Judge or retired Judge when widows pension not payable

- (1) Subject to this section, where a Judge or retired Judge has died without leaving a widow who became entitled, upon the death of the Judge or retired Judge, to a pension under this Act, there shall be paid, in respect of each eligible child of the Judge or retired Judge or of a person (whether deceased or not) who was at any time the spouse of that Judge or retired Judge, a pension at the rate of \$520 per annum or at the rate of such amount per annum as is determined in accordance with subsection (2), whichever is the higher rate.
- (2) The amount to be determined for the purposes of subsection (1) is the sum of \$208 and an amount ascertained by dividing by 4 (or, if the number of eligible children in respect of whom pension is payable under this section is greater than 4, by the number of those children) the annual amount of the pension that would, by virtue of section 5, have been payable to a widow of the Judge, or would, by virtue of section 6, have been payable to a widow of the retired Judge whose marriage to the retired Judge occurred before the retirement of the retired Judge.

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- (3) This section does not apply in relation to:
- (a) a child of a remarriage or a former spouse of a Judge or retired Judge; or
 - (b) a child of a marriage of a retired Judge that occurred:
 - (i) after the retirement of the Judge;
 - (ii) after the retired Judge attained the age of 60 years; and
 - (iii) less than 5 years before the retired Judge died.

11 Payment of orphans pensions

A pension in respect of a child under either section 9 or 10 shall be paid to the guardian of the child for the child's support and education.

12 Accrual of pensions

Pensions under this Act:

- (a) accrue from day to day but are payable monthly; and
- (b) are payable out of the public moneys of the Territory and the Allocation for that purpose is hereby established or increased to the extent necessary.

13 Special provision relating to pensions payable to children

- (1) Notwithstanding anything contained in the provisions of this Act other than this section, where a pension is payable under this Act in respect of an eligible child:
 - (a) if the Attorney-General is of the opinion that the child's support and education will be best assured by doing so, he may direct that the pension be paid to a person specified by him; or
 - (b) if the Attorney-General is satisfied that, by reason of special circumstances, it is desirable to do so in the interests of the child, he may direct that the pension be expended for the benefit of the child in a specified manner.
- (2) Where a pension referred to in subsection (1) is payable to the widow of a Judge or retired Judge, the power of the Attorney-General to direct payment of the pension to another person applies only where the child is not living with the widow.

14 Pension not payable on removal of Judge

Unless the Administrator otherwise directs, a pension under this Act is not payable by reason of the service of a Judge who has been removed from office under section 40 of the *Supreme Court Act*.

15 Adjustment for other pensions

(1) Where:

- (a) a pension is payable under this Act by reason of the service of a person as a Judge; and
- (b) a pension is or becomes payable otherwise than under this Act in respect of the prior judicial service of that person,

the amount of the pension that would, but for this sub-section, be payable under this Act in respect of any period shall be reduced by the amount of the pension in respect of the prior judicial service that is payable in respect of that period.

(2) In this section, a reference to a pension in respect of prior judicial service shall be read as a reference to a pension or retiring allowance paid or payable, whether by virtue of a law or otherwise, out of moneys provided in whole or in part by the Territory, a State, the Commonwealth or another Territory, being a pension or retiring allowance paid or payable by reason of prior judicial service or prior judicial service and any other service.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Supreme Court (Judges Pensions) Act 1980 (Act No. 52, 1980)***

Assent date 4 June 1980
 Commenced 2 April 1982 (*Gaz* G13, 2 April 1982, p 4)

Supreme Court (Judges Pensions) Amendment Act 1985 (Act No. 19, 1985)

Assent date 23 May 1985
 Commenced 3 July 1985 (*Gaz* G26, 3 July 1985, p 5)

Statute Law (Miscellaneous Amendments) Act 1991 (Act No. 77, 1991)

Assent date 16 December 1991
 Commenced s 10: 2 April 1982; rem: 16 December 1991 (s 10(2), s 2
Supreme Court (Judges Pensions) Act 1980 (Act No. 52, 1980) and *Gaz* G13, 2 April 1982, p 4)

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date 21 March 1995
 Commenced 1 April 1995 (s 2, s 2 *Financial Management Act 1992 (Act No. 4, 1995)* and *Gaz* S13, 31 March 1995)

3**SAVINGS AND TRANSITIONAL PROVISIONS**

s 5 *Supreme Court (Judges Pensions) Amendment Act 1985 (Act No. 29, 1985)*

5**LIST OF AMENDMENTS**

s 3 amd No. 77, 1991, s 10
 s 4 amd No. 19, 1985, s 4
 s 12 amd No. 5, 1995, s 19