

Parliamentary and Judicial Retiring Allowances Act 1973

No. 47 of 1973

AN ACT

Relating to Parliamentary and Judicial Retiring Allowances.

[Assented to 8 June 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

PART I—PRELIMINARY

Short title. 1. This Act may be cited as the *Parliamentary and Judicial Retiring Allowances Act 1973*.

Commencement. 2. This Act shall come into operation on the day on which it receives the Royal Assent.

PART II—PARLIAMENTARY RETIRING ALLOWANCES

Citation. 3. (1) The *Parliamentary Retiring Allowances Act 1948–1968** is in this Part referred to as the Principal Act.

* Act No. 89, 1948, as amended by No. 3, 1952; No. 30, 1955; No. 20, 1959; No. 72, 1964; No. 35, 1965; No. 71, 1966; and No. 103, 1968.

(2) The Principal Act, as amended by this Part, may be cited as the *Parliamentary Retiring Allowances Act 1948–1973*.

4. Section 3 of the Principal Act is repealed.

Parts.

5. Section 4 of the Principal Act is repealed and the following section substituted:—

“ 4. (1) In this Act, unless the contrary intention appears—

Inter-
pretation.

‘ annuity ’ means annuity under this Act;

‘ Commonwealth supplement ’ means the amount of the Commonwealth supplement ascertained in accordance with section 16;

‘ contributions ’ means contributions under Part IV;

‘ House ’ means a House of the Parliament;

‘ life policy ’ means a life policy as defined by sub-section (1) of section 4 of the *Life Insurance Act 1945–1965*;

‘ member ’ means a member of either House;

‘ parliamentary allowance ’ means the allowance paid to a member—

(a) under section 3 of the *Parliamentary Allowances Act 1920* or of that Act as amended; or

(b) under sub-section (1) of section 4 or sub-section (1) of section 5 of the *Parliamentary Allowances Act 1952* or of that Act as amended,

and includes the allowance so paid, to a person who has been a member, from and including the day of dissolution or expiration of the House of which he was a member to and including the day to which the allowance was reckoned by virtue of section 4 or section 5 of the Act referred to in paragraph (a) or is reckoned by virtue of sub-section (4) of section 4 or sub-section (5) of section 5 of the Act referred to in paragraph (b);

‘ participant ’, in relation to a superannuation scheme applying in relation to any employment, means any person employed in that employment in respect of whom benefits are applicable under the scheme by reason of his being so employed, whether or not he has made contributions under the scheme;

‘ period of service ’, in relation to a member or former member, means (subject to section 20) the period, or the sum of the periods (whether continuous or not), whether before or after the commencement of this Act, during which the member or former member was entitled to a parliamentary allowance, and includes—

(a) any period that is deemed to be included in the period of service of the member or former member by virtue of section 20A; and

(b) any period by which the period of service of the member or former member is deemed to be increased by virtue of sub-section (4) of section 22Q;

- ‘retiring allowance’ means a retiring allowance under this Act;
- ‘Trust’ means the Parliamentary Retiring Allowances Trust established under this Act;
- ‘trustee’ means one of the trustees who constitute the Trust, and includes a Minister performing the powers and functions of the Treasurer as a trustee.

“(2) A reference in this Act to the contributions of a person does not include a reference to any contributions that have been refunded to him and have not been repaid by him.

“(3) A reference in this Act to a superannuation scheme shall be read as a reference to a superannuation or retirement scheme, however established, other than the retirement scheme constituted by the provisions of this Act.

“(4) For the purposes of this Act, a benefit payable to or in respect of a member under a superannuation scheme shall not be taken to have been based partly on contributions under the scheme by the employer by reason only that the benefit included interest upon contributions made under the scheme by the member.”.

6. After section 4 of the Principal Act the following section is inserted in Part I:—

Transfer
value payable
in respect
of previous
employment.

“4A. (1) In this Act—

- (a) a reference, in relation to a member, to a transfer value payable to or in respect of the member under a superannuation scheme applicable in relation to any employment in which he was employed at any time before the date on which he became a member is a reference to a benefit by way of a lump sum payable to or in respect of the member under that scheme upon the termination of the employment otherwise than on the ground of invalidity or of physical or mental incapacity to perform the duties of the employment, being a benefit that was based wholly upon contributions under the scheme by the employer or was based partly upon such contributions and partly upon contributions under the scheme by the member; and
- (b) a reference to the amount of a transfer value—
 - (i) if the transfer value was based in part upon an amount or amounts paid to or in respect of the member under this Act—is a reference to so much only of the lump sum constituting the transfer value as exceeded that amount or the total of those amounts; and
 - (ii) does not include a reference to any part of the lump sum constituting the transfer value that was based upon contributions by the member that were of a similar nature to contributions under the *Superannuation Act 1922–1973* for reserve units of pension.

“(2) If, after a transfer value became payable to or in respect of a person under a superannuation scheme, the whole or any part of that transfer value was paid to a person administering another superannuation scheme—

- (a) where the whole of the transfer value was so paid—that transfer value shall be disregarded for the purposes of this Act; or
- (b) where part of the transfer value was so paid—the amount of that transfer value shall be deemed, for the purposes of this Act, to be reduced by the amount so paid.

“(3) Subject to sub-section (4), a transfer value shall be deemed for the purposes of this Act to have become payable in respect of a person under a superannuation scheme upon the termination of any employment if, upon the termination of that employment, he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him, being a policy the premiums for which were, while he was employed in that employment, paid in whole or in part by his employer, and, in that case, the surrender value of the policy as at the date of the termination of the employment shall be taken to be the amount of the transfer value.

“(4) Where a transfer value is, by virtue of sub-section (3), deemed for the purposes of this Act to have become payable in respect of a person upon the termination of any employment by reason that, upon the termination of that employment, he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him, a transfer value shall not be deemed, for those purposes, to have become payable in respect of the person upon the termination of any previous employment by reason that, upon the termination of that previous employment, he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him.”

7. Section 7 of the Principal Act is amended by omitting sub-section (2). **Temporary trustees.**

8. Section 8A of the Principal Act is amended by omitting sub-section (2). **Delegation.**

9. (1) Part III of the Principal Act is repealed. **Repeal of Part III.**

(2) The assets of the Parliamentary Retiring Allowances Fund are, by force of this section, vested in the Commonwealth.

(3) The Treasurer, or an officer of the Department of the Treasury authorized by the Treasurer by instrument under his hand, may convert into money any assets to which sub-section (2) applies that do not consist of money.

10. Section 13 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “contribute to the Fund” and substituting the words “pay contributions to the Commonwealth”; and **Contributions by members.**

- (b) by omitting from sub-section (4) the words “ into the Fund ” and substituting the words “ to the Commonwealth ”.

Contributions by Commonwealth.

11. Section 14 of the Principal Act is repealed.

Heading.

12. The heading to Part V is repealed and the following heading substituted:—

“ PART V—BENEFITS ”.

13. Before section 15 of the Principal Act the following section is inserted in Part V:—

Benefits to be paid by Commonwealth.

“ 14A. Payments in respect of benefits (including refunds of contributions) provided for by this Act shall be made by the Commonwealth.”.

Benefits applicable only to present and future members.

14. Section 15 of the Principal Act is amended by omitting the word “ pensions ” and substituting the words “ retiring allowances, annuities ”.

Benefits to members.

15. (1) Section 18 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “ from the Fund ”;
- (b) by omitting paragraph (a) of sub-section (2) and substituting the following paragraphs:—

“ (a) where his period of service is not less than eight years—a retiring allowance during his life-time at the rate applicable in accordance with the scale set out in sub-section (6);

(aa) where his period of service is less than eight years but he has, on each of at least three occasions (including occasions before the commencement of this paragraph), ceased to be a member upon the dissolution or expiration of the House of which he was then a member or upon the expiration of his term of office—a retiring allowance during his life-time at the rate applicable in accordance with the scale set out in sub-section (6) in the case of a member whose period of service is eight years; or ”;

- (c) by omitting from sub-section (3) the words “ paragraph (a) of the last preceding sub-section ” and substituting the words “ paragraph (aa) of sub-section (2) ”;
- (d) by omitting from sub-paragraph (i) of paragraph (a) of sub-section (4) the word “ forty ” and substituting the word “ forty-five ”;
- (e) by omitting from paragraph (a) of sub-section (4) the word “ pension ” and substituting the words “ retiring allowance ”;
- (f) by omitting from sub-section (5) the word “ pension ” (wherever occurring) and substituting the words “ retiring allowance ”; and

- (g) by omitting sub-sections (6) and (7) and substituting the following sub-section:—

“ (6) The rate of retiring allowance payable to a person under this section is such percentage of the rate of the parliamentary allowance for the time being payable under sub-section (1) of section 4, or sub-section (1) of section 5, whichever is appropriate, of the *Parliamentary Allowances Act 1952–1973* as is applicable in accordance with the following scale:—

Number of complete years in period of service of person										Percentage of parliamentary allowance to be paid as retiring allowance
8	..	..	..	..	..	..	..	..	..	50
9	..	..	..	..	..	..	..	..	..	52
10	..	..	..	..	..	..	..	..	..	54
11	..	..	..	..	..	..	..	..	..	56
12	..	..	..	..	..	..	..	..	..	58
13	..	..	..	..	..	..	..	..	..	60
14	..	..	..	..	..	..	..	..	..	62
15	..	..	..	..	..	..	..	..	..	64
16	..	..	..	..	..	..	..	..	..	66
17	..	..	..	..	..	..	..	..	..	68
18	..	..	..	..	..	..	..	..	..	70
19	..	..	..	..	..	..	..	..	..	72
20 or more	..	..	..	..	..	..	..	..	..	75 ”.

(2) The amendment made by paragraph (1) (d) does not apply to a person who was a member immediately before the date of commencement of this Act.

(3) The amendments made by sub-section (1) other than the amendment made by paragraph (1) (d) apply from the commencement of this Act to a person who—

- (a) ceased to be entitled to a parliamentary allowance before the date of commencement of this Act; and
- (b) immediately before that date was entitled to a pension in accordance with the *Parliamentary Retiring Allowances Act 1948* or that Act as amended,

in like manner as they apply to a person who ceases to be entitled to a parliamentary allowance on or after that date.

(4) Notwithstanding the amendments made by sub-section (1), the rate of the retiring allowance payable under section 18 of the Principal Act as amended by this Part to a person who was a member immediately before the commencement of this Act shall be not less than the rate of the pension that would have been payable under section 18 of the Principal Act to that person if those amendments had not been made.

16. After section 18 of the Principal Act the following section is inserted:—

Certain members who retire by reason of ill-health deemed to have had eight years' service.

“ 18A. (1) This section applies to—

(a) a person—

- (i) who ceases to be a member by reason of his having resigned his place before the expiration of his term of office;
- (ii) whose period of service is less than eight years; and
- (iii) who satisfies the Trust that his resignation was made *bona fide* on account of ill-health;

(b) a person—

- (i) who ceases to be a senator upon the expiration of the term of office of a class of senators or the dissolution of the Senate;
- (ii) whose period of service is less than eight years;
- (iii) who is not, at the time of an election to fill places in the Senate that become vacant at the time when his place becomes vacant, a candidate for election as a senator or, if elections of members of the House of Representatives are held, or an election of a member of the House of Representatives is held, at the same time as such a Senate election, a candidate for election either as a senator or as a member of the House of Representatives; and
- (iv) who satisfies the Trust that his failure to be such a candidate was due to ill-health;

(c) a person—

- (i) who ceases to be a member of the House of Representatives upon the dissolution or expiration of that House;
- (ii) whose period of service is less than eight years;
- (iii) who is not, at the time of the next ensuing elections for the House of Representatives, a candidate for election to that House or, if elections of senators are held, or an election of a senator is held, at the same time as those elections for that House, a candidate for election either as a senator or as a member of the House of Representatives; and
- (iv) who satisfies the Trust that his failure to be such a candidate was due to ill-health; and

(d) a person—

- (i) who ceases to be a senator by reason of the election of a successor under section 15 of the Constitution;
- (ii) whose period of service is less than eight years;
- (iii) who is not, at the time of the election at which his successor is elected, a candidate for election as a senator or, if his successor is elected at a general election of members of the

House of Representatives, a candidate for election either as a senator or as a member of the House of Representatives; and

- (iv) who satisfies the Trust that his failure to be such a candidate was due to ill-health,

but does not apply to a person to whom paragraph (aa) of sub-section (2) of section 18 applies.

“(2) The period of service of a person to whom this section applies shall be deemed to be eight years if—

- (a) the person satisfies the Trust that the ill-health was attributable to a physical or mental injury or condition that occurred while he was a member;
- (b) in the case of a person to whom paragraph (c) does not apply—the person furnished to the Trust within three months, or, if the Trust so allowed, six months, after the day on which he became a member or the date of commencement of this section, whichever was the later, a certificate by a legally qualified medical practitioner to the effect that the person was not likely to become, within a period of eight years, incapable by reason of ill-health of performing the duties of a member; or
- (c) in the case of a person referred to in sub-section (1) of section 20 or a person to whom section 20A or 22Q applies—he furnished to the Trust within three months, or, if the Trust so allowed, six months, after the day on which he became a member (or, if he has become a member on more than one occasion, the day on which he last became a member) or the date of commencement of this section, whichever was the later, a certificate by a legally qualified medical practitioner to the effect that the person was not likely to become, within a period specified in the certificate being a period that is not less than the period that is the prescribed period in relation to the person, incapable by reason of ill-health of performing the duties of a member.

“(3) For the purposes of paragraph (c) of sub-section (2), the prescribed period in relation to a person to whom that paragraph applies is the period of eight years less any period or periods referred to in any one or more of the following paragraphs that is or are applicable in relation to him:—

- (a) if he is a person referred to in sub-section (1) of section 20 who has contracted in accordance with that sub-section—the part of the period of service of the person that is referred to in that sub-section;
- (b) if he is a person to whom section 20A applies—the period that is, or the sum of the periods that are, deemed to be included in the period of service of the person by virtue of sub-section (1) of that section; and

- (c) if he is a person to whom section 22Q applies—the period by which the period of service of the person is deemed to be increased by virtue of sub-section (4) of that section.

“(4) Where—

- (a) a person to whom this section applies is a person referred to in sub-section (1) of section 20 who has contracted in accordance with that sub-section;
- (b) the person again became a member within three months after he last ceased to be a member; and
- (c) if the person had not ceased to be a member, his period of service would have been deemed to be eight years by virtue of another provision of this section,

the period of service of the person shall be deemed to be eight years.

“(5) Where—

- (a) a person to whom this section applies is a person to whom sub-section (1) of section 20A applies;
- (b) the person became a member within three months after he ceased to be a member of the Parliament of the State concerned;
- (c) the person furnished to the appropriate authority in accordance with the law of that State providing for pensions for members of that Parliament a certificate by a medical practitioner indicating that, for the purposes of the application of that law, the health of the person was satisfactory; and
- (d) the person satisfies the Trust that—
 - (i) in the case of a person who ceased to be a member of that Parliament by reason of his resignation—the resignation was not made on account of ill-health; or
 - (ii) in the case of a person who ceased to be a member of that Parliament by reason of the dissolution or expiration of the House of that Parliament of which he was a member or upon the expiration of his term of office—his failure to be a candidate for re-election as a member of that Parliament was not due to ill-health,

the period of service of the person shall be deemed to be eight years.

“(6) Subject to sub-section (7), where—

- (a) by reason of the termination of the employment in which a person to whom this section applies was last employed before he became a member—
 - (i) a transfer value became payable to or in respect of him under a superannuation scheme applicable in relation to that employment;
 - (ii) a pension became payable to him under such a superannuation scheme; or

- (iii) deferred benefits became applicable in respect of him under such a superannuation scheme;
- (b) in the case of a person to whom sub-paragraph (i) of paragraph (a) applies—an amount equal to the amount of the transfer value referred to in that sub-paragraph has been paid to the Commonwealth in accordance with sub-section (1) of section 22Q;
- (c) any of the following sub-paragraphs applies—
 - (i) the person underwent a medical examination required under the rules of the superannuation scheme referred to in paragraph (a) for the purpose of determining whether his health and physical fitness were of such a standard as would justify his being admitted as a participant in that scheme;
 - (ii) the person was admitted as a participant in the superannuation scheme under provisions of the rules of that scheme corresponding to the provisions of this sub-section; or
 - (iii) the person underwent a medical examination required by the person by whom he was employed in the employment referred to in paragraph (a) for the purpose of determining whether his health and physical fitness were of such a standard as would justify his being employed in that employment; and
- (d) under the superannuation scheme referred to in paragraph (a)—
 - (i) the benefits that would have been applicable in respect of the person if the termination of that employment had been caused by his ill-health would have been benefits by way of a pension;
 - (ii) those benefits would have been the maximum benefits available under the scheme; and
 - (iii) the applicability of those maximum benefits would not have been attributable to his having paid contributions at a higher rate than the ordinary rate of contributions,the period of service of the person shall be deemed to be eight years.

“(7) Sub-section (6) does not apply in relation to a person if—

- (a) a period of more than three months elapsed between the termination of the employment referred to in paragraph (a) of that sub-section and the date on which he became a member; or
- (b) in the case of a person referred to in sub-paragraph (i) or (ii) of paragraph (a) of that sub-section—the employment referred to in that paragraph terminated by reason of his ill-health.

“(8) In the application of this section to a person who is a member at the commencement of this section, a reference in paragraph (b) of sub-section (2) or in sub-section (3) to eight years shall be construed as a reference to the period by which eight years exceeds so much of the

period that, but for this section and sections 20, 20A and 22Q, would be the period of service of the member as occurred before the commencement of this section.”.

17. (1) Sections 19 and 19AA of the Principal Act are repealed and the following sections substituted:—

Benefits on death of member.

“ 19. (1) Where a person dies—

- (a) while entitled to a parliamentary allowance; or
- (b) while entitled to a retiring allowance under the foregoing provisions of this Part,

benefits are payable in accordance with this section.

“ (2) Subject to sub-section (7), if the deceased person is survived by a widow or widower, there is payable to the widow or widower, at her or his option, to be exercised as prescribed, either—

- (a) an annuity, during her or his life-time but ceasing upon her or his re-marriage, at a rate ascertained in accordance with sub-section (3); or
- (b) the sum of the deceased person’s contributions and the Commonwealth supplement in relation to the deceased person, less the amount of retiring allowance, if any, received by or accrued due to, the deceased person before the death of that person.

“ (3) The rate of the annuity referred to in paragraph (a) of sub-section (2) is—

- (a) if the period of service of the deceased person was less than eight years—five-sixths of the rate of the retiring allowance applicable in accordance with the scale set out in sub-section (6) of section 18 in the case of a person whose period of service is eight years; or
- (b) in any other case—five-sixths of the rate of the retiring allowance applicable in accordance with that scale in the case of a person whose period of service is equal to the period of service of the deceased person.

“ (4) Where a widow or widower who has an option under sub-section (2) dies or re-marries without having exercised that option, the widow or widower shall be deemed, for the purposes of this Act, to have exercised that option immediately before her or his death or re-marriage by electing to be paid the amount ascertained in accordance with paragraph (b) of that sub-section.

“ (5) Where—

- (a) a widow or widower who has an option under sub-section (2) exercises that option by electing to be paid an annuity in accordance with paragraph (a) of that sub-section; and

(b) the widow or widower re-marries,
there is payable to the widow or widower the amount, if any, by which the amount ascertained in accordance with paragraph (b) of sub-section (2) exceeds the amount of annuity, if any, received by, or accrued due to, the widow or widower before her or his re-marriage.

“ (6) If the deceased person is not survived by a widow or widower to whom an annuity or other benefit is payable under this section, there is payable to the personal representative of the deceased person the sum of the contributions paid by the deceased person and the Commonwealth supplement in relation to the deceased person, less the amount of retiring allowance, if any, received by, or accrued due to, the deceased person before the death of that person.

“ (7) Where a deceased person who was entitled to a retiring allowance at the time of his or her death is survived by a widow or widower who married that person—

- (a) after that person became entitled to that retiring allowance, whether or not the retiring allowance was payable at the time of the marriage;
- (b) after that person attained the age of sixty years; and
- (c) less than five years before that person died,

that widow or widower is not entitled to an annuity or other benefit on the death of that person.

“ 19AA. (1) In the cases specified in this section, benefits for the care and maintenance of eligible children are payable in such manner and subject to such conditions as the Trust determines.

Benefits in respect of orphaned children.

“ (2) Where—

- (a) a widow or widower dies—
 - (i) while entitled to a parliamentary allowance; or
 - (ii) while entitled to a retiring allowance under section 18;
- (b) a person dies while entitled to a retiring allowance under section 18, being a person who, but for re-marriage after becoming entitled to that retiring allowance to a person who is not entitled to an annuity under section 19, would have been a widow or widower; or
- (c) a widow or widower who has an option under sub-section (2) of section 19 dies without having exercised that option,

and is survived by a child who is a dependent child of the deceased person and is an eligible child but is not (in a case where paragraph (b) applies) a child born after the re-marriage of the deceased person or adopted after that re-marriage by the deceased person either alone or together with another person, benefit in accordance with this section is payable in respect of the child, and in any such case—

- (d) any benefit payable to the personal representative of the deceased person under sub-section (6) of section 19, or any benefit payable

to the widow or widower under paragraph (b) of sub-section (2) of that section by virtue of the operation of sub-section (4) of that section, does not become payable until the benefit in respect of the child ceases to be payable; and

- (e) the amount of any such benefit otherwise payable to the personal representative or to the widow or widower, as the case may be, is reduced by the total of the amounts of benefit paid in respect of the child.

“(3) Where a widow or widower entitled to an annuity under section 19 dies and is survived by a child who is a dependent child of the widow or widower or of the late spouse of the widow or widower and is an eligible child, benefit in accordance with this section is payable in respect of the child.

“(4) The benefit in respect of an eligible child is an annuity at the rate of the amount per annum ascertained by dividing by four (or, if the number of eligible children of the deceased person in respect of whom benefit is payable under this section is greater than four, by the number of those children)—

- (a) where the benefit became payable on the death of a person referred to in paragraph (a) or paragraph (b) of sub-section (2)—the amount of the annual rate of annuity that would have been payable to the widow or widower of that person if that person had died leaving a widow or widower entitled to an annuity under this Act;
- (b) where the benefit became payable on the death of a widow or widower referred to in paragraph (c) of sub-section (2)—the amount of the annual rate of annuity that would have been payable to the widow or widower if an annuity had been payable to her or him under paragraph (a) of sub-section (2) of section 19; or
- (c) where the benefit became payable on the death of a widow or widower referred to in sub-section (3)—the amount of the annual rate of annuity that would have been payable to the widow or widower if she or he had not died.

“(5) In this section—

‘child’, in relation to a person, includes a child adopted by that person;

‘eligible child’ means—

- (a) a child who has not attained the age of sixteen years; or
- (b) a child who—

- (i) has attained the age of sixteen years but has not attained the age of twenty-five years; and
- (ii) is receiving full-time education at a school, college or university.”.

(2) Where a person died before the date of commencement of this Act leaving a widow who was, immediately before that date, entitled to a pension in pursuance of the *Parliamentary Retiring Allowances Act 1948* or that Act as amended, the widow is, from the commencement of this Act, entitled, in lieu of that pension, to an annuity at the rate at which she would be entitled to an annuity if section 19 of the Principal Act as amended by this Part had been in force immediately before the death of the person.

(3) Section 19AA of the Principal Act as amended by this Part applies, from the commencement of this Act, in relation to a person who died after the commencement of the *Parliamentary Retiring Allowances Act 1948* and before the commencement of this Act in like manner as it applies in relation to a person who dies after the commencement of this Act.

18. Section 19A of the Principal Act is amended—

(a) by omitting from sub-section (1) the word “pension” and substituting the words “retiring allowance”;

**Additional
benefit to
Prime
Minister.**

(b) by omitting sub-section (2) and substituting the following sub-section:—

“ (2) Where a person who has held office as specified in paragraph (a) of sub-section (1) has died or dies (either while holding office as Prime Minister or after ceasing so to hold office), and that person is survived by a widow or widower, the widow or widower shall be paid an annuity, during her or his life-time but ceasing upon her or his re-marriage, at a rate equal to one-half of the rate of the retiring allowance calculated, in relation to the service of her late husband or his late wife as Prime Minister, in accordance with the scale set out in sub-section (2A).”;

(c) by omitting from sub-section (2A) the word “pension” (wherever occurring) and substituting the words “retiring allowance”; and

(d) by omitting sub-sections (3) and (4) and substituting the following sub-section:—

“ (3) A retiring allowance or annuity under this section is payable notwithstanding that the person to whom the retiring allowance or annuity is payable is entitled to some other benefit under this Act.”.

19. (1) Section 20 of the Principal Act is amended—

Re-election.

(a) by omitting from sub-section (1) the word “Trust” (last occurring) and substituting the word “Commonwealth”;

(b) by omitting from sub-sections (2) and (3) the word “pension” (wherever occurring) and substituting the words “retiring allowance”; and

- (c) by omitting sub-sections (4) and (5) and substituting the following sub-sections:—

“(4) Where a person in receipt of an annuity as a widow or widower becomes a member—

- (a) the annuity is not payable in respect of the period during which the person is in receipt of a parliamentary allowance; and
- (b) the person is not entitled to receive the annuity at any time after becoming entitled to a retiring allowance by virtue of having become a member (whether or not another benefit is accepted in lieu of that retiring allowance).

“(5) This section does not apply in relation to a retiring allowance or annuity under section 19A.”

(2) Sub-section 20 (1) of the Principal Act as amended by this Act applies to a person to whom sub-section 20 (1) of the Principal Act applied and who had not contracted in accordance with that last-mentioned sub-section before the commencement of this Act but, for the purposes of the application of the first-mentioned sub-section to such a person, the reference in that sub-section to the repayment of an amount shall be construed as a reference to the payment of an amount.

(3) Any contract that was made in pursuance of sub-section 20 (1) of the Principal Act and has not been wholly performed before the commencement of this Act has effect as if any promise in that contract to repay an amount to the Trust were a promise to pay that amount to the Commonwealth.

20. After section 20 of the Principal Act the following section is inserted:—

Period of service as member of a State Parliament to be taken into account in certain circumstances.

“20A. (1) The period of service of a member shall be deemed to include any period, whether before or after the commencement of this section, that ended before the day on which he became a member (or, if he has become a member on more than one occasion, the day on which he last became a member) and during which he was a member of the Parliament of a State if—

- (a) he is entitled to a pension (including a pension that is not immediately payable) arising out of his former membership of that Parliament; or
- (b) he received a payment by way of a lump sum by reason of the cessation of his membership of that Parliament upon the expiration of that period and, within three months, or, if the Trust so allowed, six months, after the day on which he became a member (or, if he has become a member on more than one occasion, the day on which he last became a member) or the date of commencement of this section, whichever was the later, he contracted with the Trust, in the manner required by the Trust, to pay that lump sum to the Commonwealth within three years.

“(2) Any amounts paid by a person to the Commonwealth under paragraph (b) of sub-section (1) shall be deemed, for the purposes of this Act other than section 16, to be contributions made by the person.”.

21. Section 21 of the Principal Act is repealed and the following section substituted:—

“21. (1) Subject to this section, where a person entitled to a retiring allowance or annuity is or becomes—

Reduction of benefits by reason of membership of State Parliament.

- (a) a person in receipt of a salary, or an allowance in the nature of a salary, as a member or former member of the Parliament of a State (whether by virtue of holding some special position in that Parliament or not) or as a Minister of State of a State; or
- (b) a person in receipt of a pension arising out of any such membership or ministry,

the rate of retiring allowance or annuity otherwise payable to the person shall be reduced by the rate of the salary, allowance or pension, as the case may be.

“(2) Where the salary, allowance or pension by reference to which a reduction is to be made under sub-section (1) is payable otherwise than at a periodical rate, the reduction of the retiring allowance or annuity under this Act shall be made to such extent and in such manner as the Trust determines.

“(3) Where a person entitled to a retiring allowance or annuity under this Act is or becomes in receipt of a pension, or receives a lump sum payment in lieu of a pension, under any other law of the Commonwealth (other than the *Repatriation Act 1920–1973*, the *Repatriation (Far East Strategic Reserve) Act 1956–1973*, the *Repatriation (Special Overseas Service) Act 1962–1973* or the *Social Services Act 1947–1973*), the Trust may make such reduction in the retiring allowance or annuity as it considers just.

“(4) This section does not apply in relation to a retiring allowance or annuity under section 19A.”.

22. (1) Part VA of the Principal Act is repealed.

Ministerial retiring allowances.

(2) Notwithstanding sub-section (1), Part VA of the Principal Act (other than sections 22B, 22C, 22D and 22F) continues to apply, subject to this section, to and in respect of persons who were office-holders immediately before the commencement of this Act or had previously been office-holders.

(3) The assets of the Ministerial Retiring Allowances Fund are, by force of this section, vested in the Commonwealth.

(4) The Treasurer, or an officer of the Department of the Treasury authorized by the Treasurer by instrument under his hand, may convert into money any assets to which sub-section (3) applies that do not consist of money.

(5) For the purposes of Part VA of the Principal Act as continuing to apply by virtue of sub-section (2), the following provisions of this section have effect.

(6) Part VA of the Principal Act has effect as if—

- (a) the definition of “ pension ” in sub-section 22A (1) were omitted; and
- (b) any reference in that Part to a pension under that Part were—
 - (i) in the case of a pension payable to a person who has been a contributor—a reference to a retiring allowance; and
 - (ii) in the case of a pension payable to a widow of a person who has been a contributor—a reference to an annuity, and a reference in that Part to a pensioner had a corresponding meaning.

(7) After the commencement of this Act, the Treasurer is not empowered to publish any further notice in the *Gazette* for the purposes of the definition of “ the basic ministerial salary ” in sub-section 22A (1) of the Principal Act.

(8) Notwithstanding section 22E of the Principal Act, an office-holder is not required to make contributions under Part VA of the Principal Act in respect of any period after the commencement of this Act and any contributions made after that commencement in respect of a period before that commencement shall be paid to the Commonwealth but shall be deemed to be contributions to the Ministerial Retiring Allowances Fund.

(9) Payments in respect of retiring allowances, annuities and other benefits (including refunds of contributions) under Part VA of the Principal Act shall be made by the Commonwealth.

(10) Notwithstanding section 22J of the Principal Act, the period of service of a person for the purposes of Part VA of the Principal Act does not include any period after the commencement of this Act.

(11) For the purposes of sub-section 22H (3) of the Principal Act, occasions after the commencement of this Act shall be disregarded.

(12) Where the benefit to which a person would be entitled under section 22H of the Principal Act if, at the commencement of this Act, he ceased to be entitled to a parliamentary allowance and his ministerial salary (if any) otherwise than by reason of his death would be a refund of his contributions, then, notwithstanding that section, he is entitled to that refund forthwith.

(13) If a person has qualified, subject only to his ceasing to be entitled to a parliamentary allowance and his ministerial salary (if any) otherwise than by reason of his death, to be paid a retiring allowance under section 22H of the Principal Act and—

- (a) within three months after the commencement of this Act, the person elects, by writing under his hand addressed to the Trust, that this sub-section should apply to him; or

(b) the person qualifies, subject only to his ceasing to be entitled to a parliamentary allowance otherwise than by reason of his death, to be paid a retiring allowance under section 19A of the Principal Act by reason of having held the office of Prime Minister, he is thereupon entitled to a refund of his contributions, and no other benefit is payable under Part VA of the Principal Act to or in respect of him.

(14) Sub-section 22M (1) of the Principal Act ceases to have effect but, where a person who has been a contributor and is in receipt of a retiring allowance under Part VA of the Principal Act again becomes entitled to a parliamentary allowance or ministerial salary, the retiring allowance is not payable in respect of the period during which the person is in receipt of a parliamentary allowance or ministerial salary.

(15) In this section, expressions that are used in Part VA of the Principal Act have, unless the contrary intention appears, the same respective meanings as those expressions have in that Part.

23. Before Part VI of the Principal Act the following Part is inserted:—

“ PART VB—PRESERVATION OF RIGHTS OF CERTAIN MEMBERS

“ 22Q. (1) Where—

- (a) a person who becomes a member after the commencement of this section has, at any time before becoming a member, been in employment within or outside Australia upon the termination of which a transfer value or transfer values became payable to or in respect of him after the commencement of this section under a superannuation scheme applicable in relation to that employment;
- (b) the person elected not later than three months after the date on which he became a member to pay to the Commonwealth an amount equal to—
 - (i) the amount of that transfer value; or
 - (ii) if two or more transfer values became payable—the sum of the amounts of those transfer values; and
- (c) that amount has, before the expiration of that period of three months, been paid to the Commonwealth,

Members who pay to Commonwealth transfer values received from previous employment.

the following provisions of this section have effect.

“ (2) The Trust may, if it is satisfied that there are special circumstances that justify it in so doing, extend the period for the making of an election, and for the payment of an amount to the Commonwealth, under sub-section (1).

“ (3) So much of the amount paid to the Commonwealth as is equal to the employee component of the transfer value, or to the sum of the employee components of the transfer values, as the case may be, shall be deemed, for the purposes of this Act other than section 16, to be contributions made by the member.

“(4) For the purposes of section 18, the period of service of the member shall be deemed to be increased by such period as the Trust, having regard to the amount paid to the Commonwealth under subsection (1) in respect of him, the rate of the contributions payable by him at the time when he became a member and the nature of the benefits provided for by this Act, determines as being appropriate in the circumstances.

“(5) Where a refund of the whole or any part of the contributions paid by the member to the Commonwealth, together with the whole or any part of the Commonwealth supplement, is payable to or in respect of him, then so much of the amount paid to the Commonwealth under subsection (1) as is equal to the employer component of the transfer value or the sum of the employer components of the transfer values, as the case may be, is payable to or in respect of him by the Commonwealth.

“(6) If—

- (a) under the superannuation scheme applicable in relation to any previous employment of the member, the whole or any part of the employer component of a transfer value was payable to the member upon the termination of that employment irrespective of whether he engaged in further employment;
- (b) the member ceases to be a member; and
- (c) a refund of the contributions paid by him is payable to or in respect of him but no part of the Commonwealth supplement is so payable,

so much of the amount paid to the Commonwealth under sub-section (1) as is equal to the employer component of the transfer value or to that part of that employer component, as the case may be, is payable to or in respect of him by the Commonwealth.

“(7) For the purposes of this section—

- (a) the employee component of a transfer value payable to or in respect of a person is the part (if any) of that transfer value that was based upon contributions made by the person; and
- (b) the employer component of a transfer value payable to or in respect of a person is the part of that transfer value that was based upon contributions by an employer or employers of the person.

“ 22R. (1) Where—

- (a) a person who becomes a member after the commencement of this section was, at any time before becoming a member, a participant in—
 - (i) a superannuation scheme conducted in accordance with the system established in the United Kingdom of Great Britain and Northern Ireland and known as the Federated Superannuation System for Universities; or

Special provisions affecting former participants in certain super-annuation schemes.

- (ii) a superannuation scheme that was, or is deemed to have been, an approved superannuation scheme for the purposes of this section at the time when he became a member;
- (b) by virtue of sub-section (3) of section 4A, a transfer value is deemed for the purposes of this Act to have become payable in respect of him after the commencement of this section under that superannuation scheme by reason of his having had the legal title to a life policy or life policies of a kind referred to in that sub-section or by reason of his having been entitled to have the legal title to such a policy or policies assigned to him; and
- (c) he has elected in accordance with paragraph (b) of sub-section (1) of section 22Q to pay to the Commonwealth an amount equal to the amount of that transfer value,

the following provisions of this section have effect.

“(2) The person may, within the period within which he was entitled to make an election under paragraph (b) of sub-section (1) of section 22Q, elect that this sub-section shall have effect in relation to him and, where an election is so made, section 22Q has effect as if the amount referred to in paragraph (c) of sub-section (1) of that section, or, if part only of that amount relates to the transfer value referred to in sub-section (1) of this section, that part of that amount, had been paid to the Commonwealth in accordance with that paragraph.

“(3) An election under sub-section (2) does not have effect unless the person causes to be assigned to the Commonwealth within the period referred to in that sub-section, the life policy or life policies referred to in paragraph (b) of sub-section (1) free from any mortgages, charges or other encumbrances.

“(4) If—

- (a) the amount per annum of the parliamentary allowance payable to the person upon his becoming a member was greater than the annual remuneration that was payable to him in respect of the last employment in which he was employed and to which a superannuation scheme referred to in sub-section (1) related; or
- (b) after the person became a member his parliamentary allowance is increased,

the Trust, on behalf of the Commonwealth, shall, so far as is practicable, arrange for the amount or amounts of any life policy or life policies assigned to the Commonwealth by the person to be increased by the amount or amounts by which the life policy or life policies would have been increased under that scheme, or for the issue of such additional life policy or life policies in relation to the person as would have been issued under that scheme, if he had remained a participant in the scheme and had been in receipt of an annual remuneration equal to the amount per annum of that parliamentary allowance or that increased parliamentary allowance, as the case may be.

“(5) So much of any premium payable in respect of any life policy assigned to the Commonwealth in accordance with sub-section (3) or issued in accordance with sub-section (4) as relates to a period during which the person is a member shall be paid by the Commonwealth.

“(6) Where the person ceases to be a member and is not entitled to a retiring allowance and, within three months after so ceasing, becomes employed in employment in respect of which a superannuation scheme referred to in paragraph (a) of sub-section (1) is applicable and becomes a participant in that scheme, he may elect within that period that this sub-section shall have effect in relation to him and, if he so elects—

- (a) any benefit that, but for this sub-section, would be payable to him is not payable;
- (b) the Commonwealth shall assign to the person administering that superannuation scheme the life policy or life policies assigned by the first-mentioned person to the Commonwealth in accordance with sub-section (3) or issued in relation to him in accordance with sub-section (4); and
- (c) the Commonwealth shall pay to the first-mentioned person the amount by which the amount of the benefit that, but for this section, would be payable to him exceeds the sum of the amounts of the annual premiums paid by the Commonwealth under the life policy or life policies assigned by him to the Commonwealth in accordance with sub-section (3) or issued in relation to him in accordance with sub-section (4).

“(7) Where the person is entitled to make an election under sub-section (6) but does not make the election—

- (a) the Commonwealth shall surrender the life policy or life policies assigned by him to the Commonwealth in accordance with sub-section (3) or issued in relation to him in accordance with sub-section (4); and
- (b) the Commonwealth is entitled to the proceeds of the surrender but, in the case of a policy or policies assigned by the person to the Commonwealth in accordance with sub-section (3), shall pay to the person an amount equal to so much of any premiums paid by the person in respect of the policy or policies as related to, or to any part of, the period that commenced on the date on which the transfer value referred to in paragraph (b) of sub-section (1) is deemed for the purposes of this Act to have become payable in respect of him and ended on the date on which he became a member.

“(8) If the life policy or life policies assigned by the person to the Commonwealth in accordance with sub-section (3) becomes or become payable at or before the time when he ceases to be a member, the Commonwealth shall pay to the person, or, if he is dead, to his legal personal

representative, an amount equal to so much of any premiums paid by the person in respect of the policy or policies as related to, or to any part of, the period that commenced on the date on which the transfer value referred to in paragraph (b) of sub-section (1) is deemed for the purposes of this Act to have become payable in respect of him and ended on the date on which he became a member.

“(9) Where—

- (a) the person has attained the age of fifty years and would, if he ceased to be entitled to a parliamentary allowance, be entitled to a pension; or
- (b) the person ceases to be a member and sub-sections (6), (7) and (8) do not apply in relation to him,

then, if the election made by him under sub-section (2) has not been revoked in accordance with sub-section (10), paragraphs (a) and (b) of sub-section (7) have effect in relation to him.

“(10) A person who has made an election under sub-section (2) may, if—

- (a) he has not ceased to be a member; and
- (b) the life policy or life policies assigned by him to the Commonwealth in accordance with sub-section (3) or issued in relation to him in accordance with sub-section (4) has not or have not become payable,

by notice in writing to the Trust revoke the election and, in that case, paragraphs (a) and (b) of sub-section (7) have effect in relation to him.

“(11) The Treasurer may, by instrument under his hand published in the *Gazette*, declare a superannuation scheme, being a scheme under which benefits are provided for by means of life policies, to be an approved superannuation scheme for the purposes of this section.

“(12) A declaration under sub-section (11) shall come into force on the day on which the instrument of declaration is published in the *Gazette* or, if an earlier day (not being earlier than 1st January, 1970) is specified in the instrument as the day on which the declaration is deemed to have come into force, shall be deemed to have come into force on that earlier day.

“(13) A superannuation scheme shall be taken, for the purposes of this section, to have been an approved superannuation scheme at a particular time if a declaration by the Treasurer under sub-section (11) in respect of that scheme was, or is deemed to have been, in force at that time.

“22s. Where, in pursuance of this Part, the Trust has power to make a determination in relation to a matter, the power shall be construed as including a power, exercisable in the like manner and subject to the like conditions (if any), to vary a determination so made.”

Power of Trust to vary determinations.

Exemption
of Trust
from
taxation.

24. Section 23 of the Principal Act is repealed.

Benefits not
assignable.

25. Section 24 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the word “Pensions” and substituting the words “Retiring allowances, annuities”; and
- (b) by omitting from sub-section (2) the word “pension” (wherever occurring) and substituting the words “retiring allowance, annuity”.

Accrual of
retiring
allowances,
annuities and
contri-
butions.

26. Section 24A of the Principal Act is amended by omitting the word “Pensions” and substituting the words “Retiring allowances, annuities”.

Payment of
retiring
allowances
and
annuities.

27. Section 24B of the Principal Act is amended—

- (a) by omitting from sub-section (1) the word “Pensions” and substituting the words “Retiring allowances and annuities”; and
- (b) by omitting from sub-section (2) the word “pension” (wherever occurring) and substituting the words “retiring allowance or annuity”.

Payment
otherwise
than to
person
entitled.

28. Section 26 of the Principal Act is amended—

- (a) by omitting the word “pension” and substituting the words “retiring allowance, annuity”; and
- (b) by omitting the words “pensioner or other person entitled to the benefit” and substituting the words “person entitled to the retiring allowance, annuity or other benefit”.

29. After section 26 of the Principal Act the following section is inserted:—

Calculation
of period of
service in
certain
circum-
stances.

“26A. For the purposes of this Act, where the period of service of a member or former member comprises a number of periods that are not continuous with one another and two or more of which are periods other than a complete year or an exact number of complete years, the number of complete years in that period of service shall be taken to be the sum of—

- (a) the numbers of complete years in the periods comprised in that period of service; and
- (b) the number ascertained by dividing the total of the number of days remaining in those periods by three hundred and sixty-five and disregarding any fraction in the number so ascertained.”

30. Section 27 of the Principal Act is repealed and the following section substituted:—

“ 27. Payments by the Commonwealth for the purposes of this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.”

Appropriation.

31. The Principal Act is amended as set out in the following table:—

Formal amendments.

Provision amended	Amendment
Section 2	Omit “ the first day of December, One thousand nine hundred and forty-eight ”, substitute “ 1st December, 1948 ”.
Section 15	Omit “ nineteen A of this Act ”, substitute “ 19A ”.
Section 17 (5) (a)	Omit “ section twenty or section thirty-eight ”, substitute “ section 20 or 38 ”.
Section 17 (5) (b)	(a) Omit “ forty-four ”, substitute “ 44 ”. (b) Omit “ sub-section (iii) of section forty-five ”, substitute “ paragraph (iii) of section 45 ”.
Section 18 (3)	Omit “ fifteen ”, substitute “ 15 ”.
Section 18 (4) (a)	Omit “ of this section ”.
Section 19A (1) and (2A)	Omit “ of this section ”.
Section 22	(a) Omit “ forty-four ”, substitute “ 44 ”. (b) Omit “ forty-five ”, substitute “ 45 ”.

32. (1) A person who became a member on or after 1st January, 1970, and before the commencement of this Act may, within three months after the commencement of this Act, elect that this section shall have effect in relation to him and, where an election is so made, the *Parliamentary Retiring Allowances Act 1948–1973* applies in relation to him, subject to this section, as if the definitions of “ life policy ” and “ participant ” in sub-section 4 (1), sub-sections 4 (3) and (4), section 4A, and Part VB, of that Act had come into operation immediately before he became a member.

Application of Part Vb to persons who became members on or after 1st January 1970 and before commencement of Act.

(2) The Trust may, if it is satisfied that there are special circumstances in relation to a person that justify it in so doing, extend the period for the making of an election by that person under sub-section (1).

(3) In the application of Part VB of the *Parliamentary Retiring Allowances Act 1948–1973* in relation to a person who has made an election under sub-section (1), the reference in paragraph 22Q (1) (b) of that Act to the date on which he became a member shall be read as a reference to the date on which he made the election.

(4) Where a person who is entitled to make an election under this section dies within the period of three months referred to in sub-section (1), or within any period for which that period has been extended in relation to that person under sub-section (2), without making such an election, or a person who died before the commencement of this Act would, if he had not died, have been entitled to make such an election—

- (a) if the person leaves a widow or widower—the widow or widower may make such an election within twenty-one days after the date of the death of the person or the date of commencement of this Act, whichever is the later; or

- (b) if the person does not leave a widow or widower, or the widow or widower dies within the period referred to in paragraph (a) without making such an election, but the person leaves an eligible child or eligible children within the meaning of section 19AA of the *Parliamentary Retiring Allowances Act 1948–1973*—such an election may be made within that period by such person as the Trust permits,

and, in that case, sub-section (1) has effect as if the election had been made by the first-mentioned person.

- (5) The Trust may, if it is satisfied that there are special circumstances that justify it in so doing, extend the period referred to in paragraph (4) (a) or (b).

PART III—JUDICIAL RETIRING ALLOWANCES

Citation. 33. (1) The *Judges' Pensions Act 1968** is in this Part referred to as the Principal Act.

(2) The Principal Act, as amended by this Part, may be cited as the *Judges' Pensions Act 1968–1973*.

Inter-pretation.

34. Section 4 of the Principal Act is amended—

- (a) by inserting in sub-section (1), before the definition of “child”, the following definition:—

“ ‘appropriate current judicial salary’, in relation to a Judge who has retired or died, means salary at the rate that would be payable to the Judge if he had not retired or died and, in the case of a Judge who was the Chief Judge, or a Judge other than the Chief Judge, of the Commonwealth Court of Conciliation and Arbitration, he had been the Chief Judge, or a Judge other than the Chief Judge, as the case may be, of the Commonwealth Industrial Court;”;

- (b) by omitting from the definition of “eligible child” in sub-section (1) the word “twenty-one” and substituting the word “twenty-five”;
- (c) by omitting from the definition of “retired Judge” in sub-section (1) the words “, including a pension under section 18 of this Act”;
- (d) by omitting from sub-section (1) the definition of “salary”; and
- (e) by inserting in sub-section (2), after the word “widow” (wherever occurring) the words “or widower”.

*Act No. 151, 1968.

35. Section 6 of the Principal Act is amended by omitting sub-sections (1) and (2) and substituting the following sub-sections:— Pensions of Judges.

“(1) Where a Judge who has attained the age of sixty years retires after serving as a Judge for not less than ten years, he is entitled to a pension at a rate equal to sixty per centum of the appropriate current judicial salary.

“(2) Where a Judge, not being a Judge to whom sub-section (1) applies, retires, and the Attorney-General certifies that the retirement is due to permanent disability or infirmity, he is entitled to a pension at a rate equal to sixty per centum of the appropriate current judicial salary.”.

36. Sections 7 to 12, inclusive, of the Principal Act are repealed and the following sections substituted:—

“7. (1) Where a Judge dies leaving a widow or widower, a pension shall be paid to the widow or widower 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 or her death and (in a case where sub-section (1) of section 6 would not have been applicable in relation to that retirement) the Attorney-General had certified that that retirement was due to permanent disability. Pension to widow or widower on death of Judge.

“(2) If a widow or widower in receipt of a pension under this section re-marries, the pension ceases.

“8. (1) Where a retired Judge dies leaving a widow or widower whose marriage to the retired Judge occurred— Pension to widow or widower on death of retired Judge.

(a) before the retirement; or

(b) after the retirement but—

(i) before the retired Judge attained the age of sixty years; or

(ii) not less than five years before the retired Judge died,

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

“(2) If a widow or widower in receipt of a pension under this section re-marries, the pension ceases.

“9. Where a Judge dies leaving a widow or widower, there shall, in addition to any pension that is payable to the widow or widower under section 7, be paid to the widow or widower, in respect of each eligible child of the widow or widower or of the Judge (other than a child of any re-marriage of the widow or widower), a pension at the rate of Two hundred and eight dollars per annum. Pension in respect of children on death of Judge.

“10. (1) Subject to this section, where a retired Judge dies leaving a widow or widower, there shall, in addition to any pension that is payable to the widow or widower under section 8, be paid to the widow or widower, in respect of each eligible child of the widow or widower or of the retired Pension in respect of children on death of retired Judge.

Judge (other than a child of any re-marriage of the widow or widower), a pension at the rate of Two hundred and eight dollars per annum.

“ (2) Where a retired Judge married—

- (a) after retirement;
- (b) after the retired Judge attained the age of sixty years; and
- (c) less than five years before the retired Judge died,

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 or widower.

Pension in respect of children on death of widow or widower.

“ 11. (1) Subject to this section, where the widow or widower of a Judge or retired Judge, being a widow or widower 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 or widower or of the Judge or retired Judge (other than a child of any re-marriage of the widow or widower), a pension at the rate of Five hundred and twenty dollars per annum or at the rate of such amount per annum as is determined in accordance with sub-section (2), whichever is the higher rate.

“ (2) The amount to be determined for the purposes of sub-section (1) is the sum of Two hundred and eight dollars and an amount ascertained by dividing by four (or, if the number of eligible children in respect of whom pension is payable under this section is greater than four, by the number of those children) the annual amount of the pension that, but for the death of the widow or widower and but for any re-marriage of the widow or widower, would, by virtue of section 7 or 8, have been payable to the widow or widower.

“ (3) Where a retired Judge married—

- (a) after retirement;
- (b) after the retired Judge attained the age of sixty years; and
- (c) less than five years before the retired Judge died,

pension is not, upon the death of the widow or widower 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 or widower.

Pension in respect of children on death of Judge or retired Judge when widows' pension or widowers' pension not payable.

“ 12. (1) Subject to this section, where a Judge or retired Judge has died without leaving a widow or widower 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 wife or husband of that Judge or retired Judge, a pension at the rate of Five hundred and twenty dollars per annum or at the rate of such amount per annum as is determined in accordance with sub-section (2), whichever is the higher rate.

“ (2) The amount to be determined for the purposes of sub-section (1) is the sum of Two hundred and eight dollars and an amount ascertained by dividing by four (or, if the number of eligible children in respect of whom pension is payable under this section is greater than four, by the number of those children) the annual amount of the pension that would, by virtue of section 7, have been payable to a widow or widower of the Judge, or would, by virtue of section 8, have been payable to a widow or widower of the retired Judge whose marriage to the retired Judge occurred before the retirement of the retired Judge.

“ (3) This section does not apply in relation to—

- (a) a child of a re-marriage of a former wife or husband of the Judge or retired Judge; or
- (b) a child of a marriage of the retired Judge that occurred—
 - (i) after the retirement of the Judge;
 - (ii) after the retired Judge attained the age of sixty years; and
 - (iii) less than five years before the retired Judge died.”.

37. Section 15 of the Principal Act is amended by inserting in sub-section (2), after the word “widow” (wherever occurring), the words “or widower”.

Special provision relating to children's pensions.

38. Section 16 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

Adjustment by reason of other pensions.

- “ (2) This section does not apply where the Judge or retired Judge—
- (a) was a Judge immediately before the date of commencement of the *Judges' Pensions Act 1968*; or
 - (b) died or retired before that date.”.

39. Section 18 of the Principal Act is repealed and the following section substituted:—

“ 18. This Act applies to and in respect of Judges who retired or died before the date of commencement of the *Parliamentary and Judicial Retiring Allowances Act 1973* (including Judges who retired or died before the date of commencement of the *Judges' Pensions Act 1968*) in like manner as it applies to and in respect of Judges who retire or die on or after the first-mentioned date.”.

Judges who retired or died before commencement of amending Act.

40. The Schedule to the Principal Act is repealed.

Schedule.