JUDGES’ PENSIONS ACT 1974

No. 162 of 1974

An Act to amend the Judges’ Pensions Act 1968-1973 in relation to certain Persons who are or have been Judges of the Supreme Court of Papua New Guinea.

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

**Short title and citation.**

**1.** (1) This Act may be cited as the Judges’ Pensions Act 1974.

(2) The Judges’ Pensions Act 1968-1973 is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Judges’ Pensions Act 1968-1974.

**Commencement.**

**2.** (1) Sections 1, 2 and 5 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on the date fixed under sub-section 2(2) of the Papua New Guinea Act (No. 2) 1974.

**Interpretation.**

**3.** Section 4 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “appropriate current judicial salary” and substituting the following definition:—

“‘appropriate current judicial salary’, in relation to a Judge who has retired or died, means—

(a) in the case of a Judge other than a Judge referred to in paragraph (b), (c) or (d)—salary at the rate that would be payable to the Judge if he had not retired or died;

(b) in the case of a Judge who was the Chief Judge of the Commonwealth Court of Conciliation and Arbitration or the Chief Justice of the Supreme Court of Papua New Guinea—the salary for the time being payable to the Chief Judge of the Australian Industrial Court;

(c) in the case of a Judge who was the Senior Puisne Judge of the Supreme Court of Papua New Guinea—salary at a rate equal to the mean of the rates of the salaries referred to in paragraphs (b) and (d); and

(d) in the case of a Judge who was a Judge, other than the Chief Judge, of the Commonwealth Court of Conciliation and Arbitration or was a Judge, other than the Chief Justice or the Senior Puisne Judge, of the Supreme Court of Papua New Guinea—the salary for the time being payable to a Judge, other than the Chief Judge, of the Australian Industrial Court;

(b) by omitting from sub-section (1) the definition of “Judge” and substituting the following definitions:—

“‘Judge’ means—

(a) a Justice or Judge of a federal court or of the Supreme Court of an internal Territory;

(b) a person who, by virtue of an Act, has the same status as a Justice or Judge of a court referred to in paragraph (a); or

(c) a Papua New Guinea Judge;

‘Papua New Guinea Judge’ means a Judge of the Supreme Court of Papua New Guinea who was first appointed as such a Judge before 1 December 1973;”; and

(c) by adding at the end of sub-section (1) the following definition: —

“‘Supreme Court of Papua New Guinea’ includes a court having, after the attainment by Papua New Guinea of the status of an independent sovereign state, unlimited jurisdiction in civil or criminal matters in that state.

**Pensions of Judges.**

**4.** Section 6 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:—

“(1) Where—

(a) a Judge, other than a Papua New Guinea Judge, who has attained the age of 60 years; or

(b) a Papua New Guinea Judge who has attained the age of 55 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 centum of the appropriate current judicial salary.”; and

(b) by inserting after sub-section (2) the following sub-sections:—

“(2a) Where a Papua New Guinea Judge, other than a Judge to whom sub-section (1) or (2) applies, retires and is not re-appointed as a Judge of the Supreme Court of Papua New Guinea, he is entitled to a pension—

(a) if the Attorney-General certifies that he is satisfied that his services as such a Judge were no longer required—at the rate specified in sub-section (1); and

(b) in any other case—at the prescribed rate.

“(2b) Notwithstanding paragraph (b) of sub-section (2a), where the Governor-General determines that, by reason of special circumstances, a retired Judge who would, but for this sub-section, be entitled under sub-section (2a) to a pension at the prescribed rate should receive a pension at the rate specified in sub-section (1), the retired Judge is entitled to receive a pension at the rate so specified.

“(2c) For the purposes of sub-sections (2a) and (2b), the prescribed rate, in relation to a Judge, is the rate ascertained in accordance with the formula—

where—

a is 60 per centum of the appropriate current judicial salary; and

b is—

(i) the sum of the total number of years (including a fraction of a year), of his service as a Judge and the total number of years (including a fraction of a year), that the Attorney-General certifies to be the period, or aggregate of the periods, (if any) of leave in respect of that service due to the Judge immediately before his retirement; or

(ii) 10,

whichever is the less.”.

**Adjustment by reason of other pensions.**

**5.** Section 16 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:—

“(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 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. ”;

(b) by omitting from sub-section (3) the words “this section” and substituting the words “sub-section (1) ”; and

(c) by omitting from sub-section (3) the words “the Commonwealth” and substituting the word “Australia”.

**Application of Act to and in respect of certain former Judges.**

**6.** Section 18 of the Principal Act is amended—

(a) by inserting after the word “Judges” (first and second occurring) the words other than Papua New Guinea Judges,”; and

(b) by adding at the end thereof the following sub-section:—

“(2) This Act applies to and in respect of Papua New Guinea Judges who retired or died at any time before the date of commencement of this sub-section in like manner as it applies to and in respect of Papua New Guinea Judges who retire or die on or after that date.”.