

9 GEO. VI. No. 3, 1944. *Supreme Court Acts Amendment Act.*

## SUPREME COURT.

*Supreme Court Acts Amendment Act of 1944.*

**An Act to Amend "The Supreme Court Acts, 1861 to 1941," by making further provision relating to the Salaries payable to, and the granting of Leave of Absence to, the Judges of the Supreme Court of Queensland, and for other purposes.**

9 GEO. VI.  
No. 3.  
THE  
SUPREME  
COURT ACTS  
AMENDMENT  
ACT OF  
44.

[ASSENTED TO 14TH DECEMBER, 1944.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as "*The Supreme Court Acts Amendment Act of 1944*," and shall be read as one with \*"*The Supreme Court Acts, 1861 to 1941*." Short title and construction.

(2.) \*"*The Supreme Court Acts, 1861 to 1941*" mean and include †"*The Supreme Court Acts, 1861 to 1901*" (as amended by ‡"*The Supreme Court Acts Amendment Act of 1903*," and §"*The Supreme Court Acts Amendment Act of 1926*" ), ||"*The Supreme Court Act of 1921*" (as amended by ¶"*The Legal Practitioners Act Amendment Act of 1938*," and \*\*"*The Supreme Court Act Amendment Act of 1941*" ), ††"*The Judges' Retirement Act of 1921*" (as amended by section six of ‡‡"*The Financial Emergency Act of 1931*" ), and §§"*The Supreme Court (Commonwealth Payment to Judges) Validation Act of 1930*," and such Acts are herein collectively referred to as the Principal Act. Meaning of "The Supreme Court Acts, 1861 to 1941."

(3.) The Principal Act and this Act may collectively be cited as "*The Supreme Court Acts, 1861 to 1944*." Collective title.

2. (1.) On and from the date of the passing of this Act— Future salaries of Judges of the Supreme Court.

(i.) The salary of the Chief Justice of Queensland in office at the above date, and of any Chief

\* 25 V. No. 13 and amending Acts, v. 9, pp. 285 *et seq.*

† 25 V. No. 13 and amending Acts, v. 9, pp. 285 *et seq.*

‡ 3 E. 7 No. 9, v. 9, p. 330.

§ 17 G. 5 No. 28, v. 9, p. 345.

|| 12 G. 5 No. 15, v. 9, p. 331.

¶ 2 G. 6 No. 20, 1938 Sess. v., p. 17301.

\*\* 5 G. 6 No. 11, 1941 Sess. v., p. 265.

†† 12 G. 5 No. 14, v. 9, p. 342.

‡‡ 22 G. 5 No. 1, v. 1, p. 807.

§§ 21 G. 5 No. 37, v. 9, p. 345.

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Justice to be thereafter appointed shall be at the rate of two thousand five hundred pounds per annum ;

- (ii.) The salary of all Puisne Judges of the Supreme Court in office at the above date, and of all Puisne Judges to be thereafter appointed shall be at the rate of two thousand two hundred and fifty pounds per annum.

Repeals.

- (2.) On and from the above date—

(i.) Section three of \**“ The Supreme Court Act of 1874 ”* shall be repealed ;

(ii.) Subsection seven of section four of †*“ The Supreme Court Act of 1921 ”* shall be repealed.

Leave of absence to judges.

3. (1.) Every Judge of the Supreme Court in office at the passing of this Act, and every Judge of the Supreme Court thereafter appointed shall, subject to this Act, be entitled to leave of absence on the following scale—

(a) After ten years' completed service from the date of his appointment, leave of absence on full pay for a period of twelve months ;

(b) After such ten years' completed service, leave of absence on the basis of full pay for one and one-fifth months for every further year of service,

and the Governor in Council shall, on application made by the Judge in that behalf, grant such leave of absence to such Judge accordingly.

Cash equivalent in lieu of leave.

(2.) If circumstances render it inconvenient that a Judge take the leave of absence (or any part thereof) to which he is entitled under subsection one of this section, such Judge shall be entitled to receive either during his service as a Judge or on his retirement a cash payment of a sum calculated at the rate of the salary of such Judge for the period of leave of absence to which he was entitled but failed to take.

The above provisions shall apply in any case where the whole of the leave is not taken, or where part only of the leave is so taken by the Judge concerned :

Provided that in the case of the death of any such Judge occurring—

(a) Before he has taken the leave to which he was entitled as hereinbefore provided or completed the term thereof ; or

\* 38 V. No. 3, v. 9, p. 308.

† 12 G. 5 No. 15, v. 9, p. 331.

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- (b) Before he has received the full cash equivalent payment of any leave not taken by him, and to which payment he was entitled as hereinbefore provided,

the Governor in Council shall pay over to the executors or administrators of such deceased Judge such amount (which shall be deemed to be part of his estate) as such deceased Judge would have been entitled to receive had he lived :

Provided further that if the Judge has during his lifetime directed that such amount shall upon his death be paid over to his executors or administrators in a specified number of annual instalments, not exceeding ten, then such amount shall not be payable in one sum but shall be paid in the instalments so specified.

4. The provisions of this Act shall be deemed to have <sup>Retro-  
spective  
operation of  
this Act.</sup> applied to all payments in respect of leave, or cash equivalent of leave made prior to the passing of this Act to any Judge of the Supreme Court (including the Judges in office at the passing of this Act), or in the case of his death to any dependant of a deceased Judge, and all such payments are hereby approved, ratified and validated accordingly :

Provided that nothing in this Act shall entitle or be deemed to entitle any person (or, in the case of his death, his dependants) who had been, but had ceased to be, in office as Judge prior to the passing of this Act, to the payment of any sum (other than pension, if any) in addition to that which he (or his dependants) have already received.

In respect of the Judges holding commissions as such at the passing of this Act, any leave granted, or cash payment in lieu of leave, as the case may be, shall be deemed to have been made under the provisions of this Act, which provisions are applied and extend and have effect accordingly.

5. Nothing in this Act shall prejudice or derogate <sup>Commissions  
to continue.</sup> from the Commissions of the present or future Judges of the Supreme Court, and such Commissions shall remain in full force under and subject to the Constitution of Queensland (as defined in \**"The Judges' Retirement Act of 1921"*) and the Principal Act.

\* 12 G. 5 No. 14, v. 9, p. 342.